

1
2 UNITED STATES BANKRUPTCY COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----X
5 In re Case No. 8-21-70611-REG

6
7 BARNET LOUIS LIBERMAN, Chapter 11

8 Debtor.
9 -----X

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11
12 DATE: May 14, 2021

13 TIME: 1:17 P.M.
14

15
16 VIRTUAL DEPOSITION of the
17 Debtor, BARNET LOUIS LIBERMAN, taken by the
18 Respective Parties, pursuant to a Notice
19 and to the Federal Rules of Civil
20 Procedure, before Natalie Lynch, a Notary
21 Public of the State of New York.
22
23
24
25

A P P E A R A N C E S:

SCHWARTZER & MCPHERSON LAW FIRM

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Revenue Plus LLC, Judgement Creditors)
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BY: STUART GORDON, ESQ.
FILE #: 7801-1

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BY: SANFORD P. ROSEN, ESQ.

(Appearances continued on next page.)

A P P E A R A N C E S:

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3-4 Lender LLC)
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ALSO PRESENT: RUSSELL NYPE, Creditor
BEN PELTA-HELLER,
Concierge Tech, Novak Trial
Services, LLC

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

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B. Liberman

B A R N E T L O U I S L I B E R M A N,
called as a witness, having been first duly
sworn by a Notary Public of the State of
New York, was examined and testified as
follows:

MR. SCHWARTZER: Mr. Lieberman,
my name is Lenard Schwartzer. I'm
the attorney who will be representing
Russell Nype and Revenue Plus at this
deposition.

Your deposition was noticed for
1 p.m. on Friday the 14th. I believe
that time was an agreement. That
time would set and agreed to by you
and your counsel.

For some reason, that we're not
aware of, your counsel is not on the
phone, and we have a relatively short
time in order to take this deposition
because there is a hearing on May
24th.

Do you want to go forward with
the deposition without your attorney?

1 B. Liberman

2 THE WITNESS: No.

3 MR. SCHWARTZER: Okay. We'll
4 wait another -- another 13 minutes,
5 until 1:30, to see if Mr. Rosen or
6 one of his associates is on the
7 deposition.

8 (Whereupon, a recess was
9 taken.)

10 MR. SCHWARTZER: It is now, as
11 I understand it, 1:37 p.m. This
12 deposition was set to begin at 1
13 p.m., New York time, and due to Mr.
14 Rosen's inability to get in on the
15 video conference, he is on now via
16 telephone.

17 EXAMINATION BY

18 MR. SCHWARTZER:

19 Q. Please state your name for the
20 record.

21 A. Barnet Louis Liberman.

22 Q. Please state your address for
23 the record.

24 A. 10 Palomino Court, East
25 Hampton, New York 11937.

1 B. Liberman

2 Q. Mr. Liberman, this deposition
3 is being taken in a contested matter in the
4 bankruptcy court involving your bankruptcy
5 case.

6 It is really -- it is --
7 pursuant to the rules it's related to the
8 two motions that are pending in the
9 bankruptcy court. And it is not a general
10 2004 exam relating to other matters, but
11 just to these two motions.

12 And I'm going to be seeking
13 information that relates to these motions
14 or may lead to evidence relating to these
15 motions.

16 To begin with, are you able to
17 answer questions today?

18 A. I believe so.

19 Q. Is there any medical condition
20 that will prevent you from answering
21 questions to the best of your ability
22 today?

23 A. Well, I'm somewhat compromised
24 by Lasix, so, I'll be leaving the table a
25 few times during this period.

1 B. Liberman

2 Q. If you need -- you know, you
3 and I are not far in difference in age, so,
4 if you need to get up, let me know.

5 A. Okay.

6 Q. And that will be fine. I have
7 no problem giving you the opportunity to
8 relieve yourself, or get a drink, or
9 whatever you need to do.

10 However, I would like to get as
11 many questions in in the period of time
12 that we have left.

13 MR. ROSEN: It's Sandy. Can
14 you hear me?

15 MR. SCHWARTZER: I can hear you
16 now, Sandy.

17 MR. ROSEN: Okay. Could I just
18 trouble you? I don't know who is on
19 the phone, but John Giampolo is
20 trying to get the link to the
21 deposition.

22 MR. GIAMPOLO: I'm here, Sandy.
23 Sandy, I dialed in.

24 MR. ROSEN: All right. Very
25 good. Thank you. Sorry.

1 B. Liberman

2 MR. SCHWARTZER: Okay.

3 Q. To begin with, Mr. Liberman, do
4 you know Gary M. Rosenberg?

5 A. Yes.

6 Q. How long have you known him?

7 A. Since 1985 or '84.

8 Q. And how did you -- how do you
9 know him?

10 A. Uh, he represented me before
11 the -- his firm represented me before the
12 rent stabilization board in New York.

13 Q. And has he or his law firm
14 represented you in other matters since
15 then?

16 A. Represented me? Yes, his firm
17 represented me. I'm not certain. It
18 was 2017 in, uh, a mortgage closing, uh,
19 with a bridge lender.

20 Q. For what property?

21 MR. GIAMPOLO: I'm just going
22 to object to form. Specify. Are you
23 asking if he was representing him
24 individually, Barnet Liberman or
25 entities that he owned?

1 B. Liberman

2 MR. SCHWARTZER: You can -- Mr.
3 -- Mr. Giampolo, you're not a party
4 to this contested matter, and you
5 don't represent a party in this
6 contested matter.

7 You need to file the motion,
8 anything in support of the motion,
9 and you didn't file anything in
10 opposition to the motion.

11 So, you're not allowed to
12 object during this deposition. If
13 you want to object to the form of
14 questions and things like that, you
15 can do that at the time we introduce
16 the transcript to the court.

17 A. Well, take a hint from what the
18 counsel just said that in the first
19 instance, he represented -- the firm of
20 Rosenberg & Estis represented Mountbatten
21 -- Mountbatten Equities.

22 And in a second instance what I
23 just spoke about, his firm represented
24 Ossining Land Holdings.

25 Q. Okay.

1 B. Liberman

2 With regard to Mountbatten,
3 what was your position in Mountbatten?

4 A. Mountbatten?

5 MR. ROSEN: Objection.

6 You can answer that.

7 THE WITNESS: I can?

8 MR. SCHWARTZER: Who's
9 objecting?

10 MR. ROSEN: The only one who
11 can is me. It's Sandy.

12 MR. SCHWARTZER: Okay. Why?
13 You're objecting to him telling me
14 what position he held in Mountbatten?

15 MR. ROSEN: I'm objecting to
16 the form of your question. He can
17 answer it if he understands it.

18 A. What position? I was at that
19 time a general partner in that partnership.

20 Q. And in the Ossining entity that
21 was involved in the later representation,
22 what was your position in that company?

23 A. I think they call it member.

24 Q. Were you the managing member?

25 A. No. I'm not certain.

1 B. Liberman

2 Q. Were you the person who made
3 decisions for that company?

4 A. I was one, yes.

5 Q. Who was the other?

6 A. Stefan Melter.

7 Q. Do you have any family
8 connection to Mr. Gary M. Rosenberg?

9 A. No.

10 Q. Uh, in the past Mr. Rosenberg
11 has loaned you, according to the promissory
12 notes, about \$2,000,000; is that correct?

13 A. That's an approximation.

14 Q. And I believe the first note
15 you gave him was dated some time in 2009;
16 is that correct?

17 A. I'm not certain.

18 Q. About when did you get your
19 first loan from Mr. Rosenberg, to the best
20 of your knowledge?

21 A. I can't hear you clearly. Can
22 you get closer?

23 Q. To the best of your knowledge,
24 when did you get your first loan from
25 Mr. Gary M. Rosenberg?

1 B. Liberman

2 MR. ROSEN: Objection.

3 You can answer that, Barnet.

4 A. I think --

5 MR. ROSEN: Lenard --

6 A. It was in connection with a
7 project I was doing in some time around
8 2000.

9 Q. Okay.

10 Was that loan repaid?

11 A. Yes.

12 Q. Do you recall providing
13 Mr. Nype's counsel, John Mooshie, with a
14 series of 11 promissory notes from you and
15 Phyllis Liberman to Mr. Rosenberg?

16 A. I'm sorry, can you repeat the
17 question?

18 Q. Do you remember providing
19 copies of a 11 promissory notes to Mr.
20 Rosenberg executed by you and Phyllis
21 Liberman?

22 A. I don't recall any specific
23 number.

24 Q. Do you recall giving a number
25 of promissory notes to Mr. Mooshie?

1 B. Liberman

2 A. I didn't hear that, the last
3 part.

4 Q. Did you remember giving a group
5 of promissory notes to Mr. John Mooshie,
6 Mr. Nype's state court counsel in
7 discovery?

8 A. Yes.

9 Q. Okay.

10 Do you recall being questioned
11 about any of those notes?

12 A. Not specifically.

13 Q. Were the copies of the
14 promissory notes that you provided to
15 Mr. Mooshie true copies of what you
16 actually signed and executed?

17 A. I'm not sure I understand what
18 you mean by true copy.

19 Q. Well, I assume that you -- you
20 and your attorney provided copies of
21 documents to Mr. Mooshie.

22 Would those have been copies of
23 actual documents that you had in your
24 records?

25 A. Yes, but they were copies. The

1 B. Liberman

2 note -- I am pretty sure Mr. Rosenberg has
3 the note.

4 Q. I would assume that the payee
5 has the original notes as well.

6 A. Okay. They were copies, yes.

7 Q. Yeah.

8 And the copies you have that
9 you provided show that the interest rate on
10 these promissory notes was 14 percent per
11 annum.

12 Do you recall that?

13 A. I don't recall each and every
14 note, but 14 percent I'm sure was on some
15 of them.

16 Q. Have you paid interest on these
17 promissory notes?

18 A. Not that I recall.

19 Q. So, to the best of your
20 recollection you don't recall ever paying
21 interest on any of the promissory notes
22 that you provided to Mr. Mooshie? And
23 these are the ones that are dated from 2009
24 through 2019.

25 A. I would have to check, uh, with

1 B. Liberman

2 my bookkeeper.

3 Q. I understand that. But to the
4 best of your recollection can you tell me,
5 have you been paying the 14 percent
6 interest on these notes, or any interest on
7 these notes?

8 A. Not that I recall.

9 Q. Have you paid off any of these
10 notes?

11 A. I don't have the notes nor
12 those records in front of me, so, I can't
13 give you a definitive answer. I don't know
14 which notes you have.

15 Q. Well, I'm asking, to the best
16 of your recollection, promissory notes that
17 you provided in discovery in the state
18 court case.

19 They add up to about
20 \$2,000,000, and they date back from 2009 to
21 2019. Do you recall paying off any of
22 those notes?

23 A. Do I recall? No.

24 Q. Okay.

25 In December of 2019 you

1 B. Liberman

2 executed -- well, I should not say you
3 executed. Let me check.

4 You executed a mortgage
5 document for the benefit of Gary M.
6 Rosenberg encumbering the apartment 805,
7 uh, at 421, uh, Hudson Street.

8 Do you recall doing that?

9 A. I know I did. I just -- I'm
10 trying to -- a specific recollection I
11 don't have. But I did execute that.

12 Q. So this -- and I was provided,
13 and I believe I -- it came from
14 Mr. Mooshie, I don't know whether you
15 provided it, a copy of a mortgage recorded
16 on December 17, 2019 in New York County,
17 and it appears to have your signature on
18 the mortgage.

19 Would that be the document you
20 executed?

21 MR. ROSEN: Objection.

22 Barnet, you can answer that.

23 A. Without -- you're asking me to
24 make assumptions. Without looking at it it
25 is hard to say.

1 B. Liberman

2 If you're confirming that I
3 provided it or my attorney provided it,
4 then, uh, you can rely on that. I --

5 Q. I'm just -- I'm asking your
6 recollection. I'm just wondering if you
7 remember executing a mortgage on the
8 apartment at 805 -- apartment 805 for the
9 benefit of Mr. Rosenberg in December of
10 2019?

11 A. I'm sure I did. I just don't
12 recollect exactly who was sitting where. I
13 don't recollect the exact circumstances,
14 but I'm sure I did sign.

15 Q. Well, that's what I'm going to
16 be asking you about. How come after ten
17 years of unsecured promissory notes you
18 provided a mortgage to Mr. Rosenberg?

19 MR. ROSEN: Objection.

20 You can answer that, Barnet.

21 A. The consideration for giving
22 the mortgage was for him giving me
23 additional funds, which I sorely needed at
24 the time.

25 Q. Have you made any payments on

1 B. Liberman

2 the mortgage since it was executed?

3 A. No.

4 Q. Has any -- do you know if any
5 of the entities that I -- well, let me ask.

6 Do you know if Hudson 805 LLC
7 has made any mortgage payments to Mr.
8 Rosenberg?

9 A. No, I don't know.

10 Q. Do you know what Hudson 805 LLC
11 is?

12 A. Yes.

13 Q. Well, what is it?

14 A. It's an LLC that owns apartment
15 805 at 421 Hudson Street.

16 Q. And who are the managing
17 members of that company?

18 A. My wife Phyllis.

19 Q. And do you know if your wife
20 has arranged for any payments on that
21 mortgage since it was made?

22 A. I don't know.

23 Q. Do you know what the payment
24 would be on the mortgage --

25 A. No.

1 B. Liberman

2 Q. -- that you signed?

3 A. No.

4 Q. Would they -- okay.

5 Do you know what the entity TLG
6 Hudson LLC is?

7 A. Not really.

8 Q. Do you know who the managers of
9 TLG Hudson LLC are?

10 A. Probably my wife and myself. I
11 just can't remember where it fits in.

12 Q. Is T -- do you recall if TLG
13 Hudson LLC is the managing member of Hudson
14 805 LLC?

15 A. I don't recall that. That
16 might be what happened. I'm not sure.

17 Q. Did you arrange for an attorney
18 or someone else to organize TLG Hudson LLC
19 for you in May of 2019?

20 A. Yes.

21 Q. And who was the person who
22 arranged for the formation of that company?

23 A. Neil Parsoff.

24 Q. And what was the purpose of
25 forming that company?

1 B. Liberman

2 A. I don't recall.

3 Q. How would you go about finding
4 out what the reason was? If you were
5 trying to find out, how would you do it?

6 A. I would ask Neil.

7 Q. And Neil Parsoff is an
8 attorney; is that correct?

9 A. Yes.

10 Q. And who does he represent?

11 A. He represents -- he represents
12 myself. And he represents the trusts for
13 my children. And he represents -- I think
14 that's it.

15 Q. Does he represent your wife as
16 well?

17 A. Yes. Yes. I'm sorry. Yes.

18 Q. Okay.

19 So, at this point in time you
20 can't tell me the reason why TLG Hudson LLC
21 was formed?

22 A. No.

23 Q. And could you tell me, who were
24 the managers of Hudson 805 LLC before TLG
25 Hudson was formed?

1 B. Liberman

2 A. Oh, that would have been my
3 wife and perhaps myself as well.

4 Q. Okay.

5 You arranged, it appears that
6 you arranged that for Hudson TLG to become
7 the controlling entity for Hudson 805,
8 which -- apartment 805.

9 Do you recall why that was
10 done?

11 MR. ROSEN: Objection.

12 You can answer that, Barnet.

13 A. No. That's just what I told
14 you a few moments ago. You asked that
15 question.

16 Q. Did you have any discussions
17 with Mr. Rosenberg about the re -- the
18 mortgage on apartment 805?

19 A. You have to be more specific.

20 Q. Well, at one point he didn't
21 have a mortgage, and at another point he
22 did have a mortgage.

23 A. Oh, yeah.

24 Q. How did that come about?

25 A. I thought I explained that a

1 B. Liberman

2 moment ago.

3 (Whereupon, the Reporter asked
4 for a clarification because of
5 technical difficulties.)

6 MR. ROSEN: Objection.

7 Go ahead, Barnet.

8 THE WITNESS: Sorry?

9 MR. ROSEN: I said go ahead.

10 THE WITNESS: Oh.

11 A. At the time I required
12 additional money, and Mr. Rosenberg said
13 that he had out a lot of money. If he was
14 going to put out any additional money, he
15 wanted to be secured by a mortgage.

16 And then from then on I dealt
17 with someone else in his office
18 exclusively.

19 Q. Who did you deal with at his
20 office?

21 MR. ROSEN: Can I -- hold it.

22 Hold it a minute.

23 I got a problem.

24 MR. SCHWARTZER: I can't tell
25 who's speaking.

1 B. Liberman

2 MR. ROSEN: It's Sandy.

3 (Whereupon, the Reporter asked
4 for a clarification because of
5 technical difficulties.)

6 MR. ROSEN: All I said was, I
7 have a problem getting into
8 attorney/client work product or the
9 attorney/client privilege.

10 Q. Was the person you spoke to at
11 the firm of Rosenberg & Estis?

12 A. You're not asking me -- are you
13 asking me who it was?

14 Q. I'm asking you if they were
15 with the firm of Rosenberg & Estis.

16 A. Yes.

17 Q. Were they representing you?

18 A. In that transaction, no.

19 Q. And who was the person you were
20 talking to at Rosenberg & Estis with regard
21 to this mortgage transaction?

22 A. Let me correct myself. I was
23 talking with Neil Parsoff. And we were
24 together on the phone with a fella named
25 Freeze. David Freeze. He just had a baby.

1 B. Liberman

2 Q. Now, I'm not going to ask you
3 anything about what Mr. Parsoff said, but
4 with regard to Mr. Freeze, did he explain
5 to you what the purpose of the mortgage
6 was?

7 MR. ROSEN: I'm going to
8 object. Why are you asking him about
9 what Mr. Freeze said?

10 MR. SCHWARTZER: Fine. You're
11 -- are you instructing him not to
12 answer?

13 MR. ROSEN: Well, if you're
14 asking --

15 MR. SCHWARTZER: Either
16 instruct him not to answer or --
17 that's fine. Your objection is on
18 the record.

19 We have nobody to decide on the
20 outcome of objections, so, you made
21 your objection.

22 MR. ROSEN: Can you relax?

23 MR. SCHWARTZER: Could you stop
24 interrupting?

25 MR. ROSEN: No. Not if you are

1 B. Liberman

2 going to ask inappropriate questions
3 that breach the attorney/client
4 privilege.

5 MR. SCHWARTZER: You're telling
6 me that asking about the other side
7 -- what the other side attorney said
8 to Mr. Liberman is covered by
9 attorney/client privilege?

10 MR. ROSEN: You have not
11 established who this person is.

12 MR. SCHWARTZER: I understand.
13 That's what I'm asking the questions.

14 MR. ROSEN: So why don't you
15 ask who he is?

16 MR. SCHWARTZER: Mr. Rosen, you
17 are just interrupting for the purpose
18 of delaying. That's getting to be
19 very apparent.

20 MR. ROSEN: You're wrong. I'm
21 interrupting because your questions
22 are terrible. Your questions are not
23 good questions. Why don't you ask
24 clear questions?

25 MR. SCHWARTZER: You -- fine.

1 B. Liberman

2 Your client, if he does not
3 understand a question, he can say he
4 does not understand.

5 In depositions in Federal Court
6 all the objections are reserved. So,
7 you don't have to make any objections
8 on the record.

9 Q. Mr. Liberman, to the best of
10 your recollection, what's the name of the
11 attorney who was on the phone with you and
12 Mr. Parsoff?

13 A. David Freeze.

14 Q. What did Mr. Freeze say to you
15 about this mortgage?

16 MR. ROSEN: Lenard, do me a
17 favor. Could you tell me who
18 Mr. Freeze was at the time?

19 MR. SCHWARTZER: No. I'm
20 asking the witness.

21 MR. ROSEN: Lenard, please ask
22 the witness.

23 (Whereupon, the Reporter asked
24 for a clarification because of
25 technical difficulties.)

1 B. Liberman

2 MR. SCHWARTZER: Miss Court
3 Reporter, are you able to keep your
4 statements on the record as well?
5 Because I want the record to clearly
6 reflect that you were unable to hear
7 Mr. Rosen.

8 (Whereupon, the Reporter asked
9 to go off the record.)

10 MR. SCHWARTZER: For the
11 record, I am pointing out that the
12 court reporter had to state several
13 times that she could not hear Mr.
14 Rosen, and that when he talks on the
15 phone in this deposition, we are only
16 hearing every other word.

17 THE WITNESS: Sandy, there is
18 like a red line through the speaker
19 on your -- I don't know what that
20 means. I think it might mean you're
21 muted, Sandy.

22 MR. ROSEN: Can you hear me,
23 Barnet?

24 THE WITNESS: Yes. Now I can
25 hear you.

1 B. Liberman

2 Q. Mr. Liberman, in your
3 conversation with Mr. Freeze, did you
4 understand who Mr. Freeze was representing?

5 A. Yes, certainly.

6 Q. And who was he representing?

7 A. Gary Rosenberg.

8 Q. Okay.

9 And did he discuss with you the
10 terms of the mortgage?

11 A. Not that I recall.

12 Q. So, what was the contents of
13 that conversation?

14 A. I don't remember. I remember I
15 was on the phone. I was in Mr. Parsoff's
16 office, and we were on the phone with
17 Mr. Freeze. I don't remember any other
18 details at the moment.

19 Q. How did the terms of the
20 mortgage come about?

21 A. They were what was presented.
22 They were presented that way in writing.

23 Q. Who presented them to you?

24 A. The law firm. I guess office
25 of Freeze. I'm not certain which

1 B. Liberman

2 personality, but...

3 Q. Was there any point in time
4 when they asked you how much interest you
5 were willing to pay?

6 A. No, not that I recall.

7 Q. Did there come a time when they
8 ever asked you when the note -- when the
9 debt would mature?

10 A. Did they ask me?

11 Q. Yes.

12 A. Not that I recall. It was all
13 in writing on the documents.

14 Q. And did you discuss the terms
15 of the mortgage with anybody?

16 A. With, uh, Neil Parsoff.

17 Q. Mr. Liberman, let's go on to --
18 I have to get one final question about that
19 mortgage.

20 To the best of your knowledge,
21 has anyone made any payments on the
22 mortgage since it was made in December of
23 2019?

24 A. I can't confirm either way.

25 Q. What is the -- what is the

1 B. Liberman

2 value of the apartment, 805?

3 A. Hard to tell. This is a
4 difficult market.

5 Q. Are there any other similar
6 apartments listed for sale at that
7 location?

8 A. No.

9 Q. Are you sure that apartment 820
10 is not listed for sale?

11 A. It may be. It is not similar.

12 Q. In what way is it not similar?

13 A. Half the size.

14 Q. Which one is half the size?

15 A. 820.

16 Q. 820 is half the size of
17 apartment 805?

18 A. Approximately, yes.

19 Q. Okay.

20 And is that because apartment
21 805 is actually consisting of two units,
22 805 and 806?

23 A. It is a totally different
24 layout.

25 Q. Okay.

1 B. Liberman

2 But it is twice the size?

3 A. Yes.

4 Q. When is the last time you had
5 apartment 805 appraised?

6 A. I think more than four years
7 ago.

8 Q. Do you recall what the
9 appraisal was four years ago?

10 A. The value?

11 Q. The appraised value.

12 A. About \$12,000,000.

13 Q. Have there been any substantial
14 physical changes to the unit since that
15 appraisal was done?

16 A. Yes.

17 Q. And what were they?

18 A. Two stainless steel and glass
19 spiral staircases connecting the terraces
20 of the apartment were removed.

21 Q. Any other major changes?

22 A. No.

23 Q. Are you still one of the
24 managing members of TLG Hudson LLC?

25 A. I'm not certain.

1 B. Liberman

2 Q. When you signed the mortgage as
3 the manager, the mortgage to Mr. Rosenberg,
4 you signed it as a manager of TLG Hudson
5 LLC.

6 Were you the manager at that
7 time?

8 A. The best I could tell from what
9 you're saying.

10 Q. And do you recall if you
11 resigned as the manager since then?

12 A. I don't recall resigning.

13 Q. Other than owning an interest
14 -- other than being the manager of Hudson
15 805 LLC, what other purpose does TLG Hudson
16 LLC perform?

17 A. None that I know of.

18 Q. Does TLG Hudson LLC own any
19 assets other than an interest in Hudson 805
20 LLC?

21 A. Not that I'm aware of.

22 THE WITNESS: I'm going to
23 exercise my old man privilege now.

24 MR. SCHWARTZER: That is
25 perfectly fine. Please go ahead.

1 B. Liberman

2 We'll take a couple of minute break
3 and wait for you to come back.

4 THE WITNESS: Thank you.

5 (Whereupon, a short recess was
6 taken.)

7 Q. Mr. Liberman, there is an
8 entity called Liberman Group LLC. Do you
9 recall that entity?

10 A. Yes.

11 Q. Are you a member of that
12 entity?

13 A. Yes.

14 Q. Are you a manager of that
15 entity?

16 A. I don't believe so.

17 Q. Who caused the formation of
18 Liberman Group LLC?

19 A. That was done with Neil
20 Parsoff.

21 Q. And who was Mr. Parsoff's
22 client when he formed Liberman Group LLC?

23 A. The Liberman family.

24 Q. And that -- and who spoke to
25 Mr. Parsoff on behalf of the Liberman

1 B. Liberman

2 family?

3 A. My wife, myself, and from time
4 to time, I'm not certain, one of my
5 daughters. I'm not sure which one.

6 Q. And what does the Liberman
7 Group LLC own?

8 A. Uh, it owns interest in various
9 entities, partnerships, corporations, LLCs.

10 Q. Do you recall which entities it
11 owns?

12 A. I would have to check the list.

13 Q. Where would you have that list
14 that you are going to check?

15 A. Uh, I might have it on my desk.

16 Q. Why don't you look for it.

17 A. I was looking for it yesterday.
18 Hold on.

19 (Whereupon, a short recess was
20 taken.)

21 Q. Mr. Liberman, were you able to
22 find that paper with the list?

23 A. I am checking right now.

24 It is the victim of a spilled
25 cup of coffee at some point. Let me see if

1 B. Liberman

2 I can read it.

3 Q. So, could you tell me now that
4 you have that list what Liberman Group LLC
5 owns?

6 A. A portion of At Home Israel
7 LLC, The Gym Holdings Group LLC, Casino
8 Coolage LLC, Hudson Leroy LLC --

9 THE WITNESS: Excuse me. I got
10 to take this. Hold on.

11 (Whereupon, a short recess was
12 taken.)

13 THE WITNESS: Thank you. Thank
14 you.

15 A. -- SA Land Partners III, LLC,
16 SA Land Partners -- Roman numeral -- VI,
17 LLC, Tru Fresh LLC, Tri Ventures II --
18 Roman numeral II -- Fund LP.

19 Right.

20 Q. Okay.

21 Let's start with the first
22 item. What was the first item on the list
23 that you had?

24 A. At Home Israel LLC.

25 Q. Does that entity now have any

1 B. Liberman

2 assets?

3 A. No.

4 Q. Thin Holding Group LLC, does it
5 have any assets?

6 A. Apparently no.

7 Q. When did it stop having assets?

8 A. Three or four years ago.

9 Q. And what kind -- I assume from
10 the name that it had something to do with
11 the gyms.

12 A. It had an interest in the
13 fitness clubs, rented fitness clubs in a
14 number of towns in Connecticut and in New
15 York.

16 Q. And were you a manager of that
17 entity?

18 A. No.

19 Q. Okay.

20 Who was?

21 A. Seth Herschel and Stefan
22 Melter.

23 Q. With regard to Hudson Leroy,
24 does that entity have any assets?

25 A. Hudson Leroy has a lease and

1 B. Liberman

2 sublease to Printing House Fitness, PH,
3 Printing House Fitness.

4 I'm not certain, but there is
5 an entity between Hudson Leroy and Equinox
6 Printing House. But it has a triple net
7 lease. The proceeds come to Hudson Leroy.

8 Q. When was the last time Hudson
9 Leroy received any monies from these
10 leases?

11 A. March of 2020, I believe. Or
12 they did pay an electrical bill, uh,
13 recently, but that did not come to Hudson
14 Leroy.

15 Q. Okay.

16 A. I'm not sure. I'm not sure.
17 They did pay, uh, an electrical bill
18 recently. And I think they paid a partial
19 rent payment recently.

20 Q. So, your recollection is that
21 Hudson -- that the tenant -- sorry, I guess
22 subtenant, actually, paid some rent in the
23 last year?

24 A. I believe they have.

25 Q. Has the lease been terminated?

1 B. Liberman

2 A. (No response.)

3 Q. Let me -- Mr. Liberman, that
4 question was not clear even to me.

5 Was the sublease between the
6 tenant -- between Hudson Leroy and the
7 tenant terminated?

8 A. Hudson Leroy. In the
9 interim -- no, I don't think so.

10 Q. Has the lease between Hudson
11 Leroy and the owner of the property been
12 terminated?

13 A. Um, I don't think so.

14 Q. Has Hudson Leroy paid any rent
15 to the owner of the property since March of
16 2020?

17 A. No.

18 Q. And has Hudson Leroy paid any
19 money to the Liberman Group since March of
20 2020?

21 A. No.

22 Q. The next entity you mentioned
23 was SA Land Partners III LLC. What did
24 that own?

25 A. That owns an interest in a

1 B. Liberman

2 development assembled parcel south of San
3 Antonio.

4 Q. And what's the status of that
5 investment?

6 A. There is a -- they had sold, I
7 guess in '19. In 2019 they sold some of
8 the acreage.

9 Q. Since 2019 has that company
10 paid any money to the Liberman Group?

11 A. No.

12 Q. Do you have any idea what the
13 value of that investment is worth at this
14 time?

15 A. No. The general partner has
16 not returned calls for about eight months.

17 Q. With regard to SA Land Partners
18 VI LLC, does Liberman Group still have an
19 interest in that entity?

20 A. Yes.

21 Q. Has the Liberman Group received
22 any payments from that entity since March
23 of 2020?

24 A. No.

25 Q. Do you have any idea what the

1 B. Liberman

2 value of that investment is?

3 A. No.

4 Q. The next item I heard was Two
5 Fresh?

6 A. Tru, T-R-U.

7 Q. T-R-U Fresh --

8 A. Right.

9 Q. -- LLC?

10 A. Yes.

11 Q. What kind of business is that
12 in?

13 A. That was in the business of
14 purchasing, arranging for a patented
15 process, a number of patented processes,
16 that I own to be used for freezing protein.

17 Basically it was salmon out of
18 Norway. And then distributing, having it
19 shipped by ship and distributed in this
20 country.

21 (Whereupon, the witness
22 received a phone call and a recess
23 was taken.)

24 Q. Is Tru Fresh still in business?

25 A. No.

1 B. Liberman

2 Q. The next thing I have on the
3 list is something that ended in Fund LL --
4 Fund LP. What's the full name again?

5 A. Tri Ventures II.

6 Q. And what business is that
7 company in?

8 A. That company is in the business
9 of -- it's an incubator company. And they
10 invest in pharmaceutical, and medical
11 instruments, uh, surgical tools, things
12 like that. Uh, and portfolio companies.
13 And then they, uh, sell them off.

14 Q. Is that entity still in
15 business?

16 A. Yes.

17 Q. And what percentage of it does
18 the Liberman Group own?

19 A. .8333 percent, less than one
20 percent.

21 Q. Okay.

22 Have you received any
23 distribution? Has the Liberman Group
24 received any distributions from that fund?

25 A. Yes.

1 B. Liberman

2 Q. And when was that?

3 A. I think it was in 2020. Yes,
4 in 2020.

5 Q. And what was the amount of the
6 distribution?

7 A. I can't recall at this point.

8 Q. If you don't know the exact
9 amount, was it \$1000? Was it 10,000? Was
10 it 100,000?

11 A. It was -- I think, it was in
12 the range of 20 to \$30,000.

13 Q. And that came in, you said, in
14 the past year?

15 A. 2020.

16 Q. Does the Liberman Group have ts
17 own bank account?

18 A. Yes.

19 Q. At what bank?

20 A. Currently it's Bethpage
21 Federal, uh, what do they call it, Federal
22 Credit Union.

23 Q. Okay.

24 Do you have -- by any chance do
25 you have a statement for that account on

1 B. Liberman

2 your desk?

3 A. No. I have a letter from them.
4 They are the same people who are
5 foreclosing on -- they have a mortgage on
6 305 Second Avenue.

7 Q. Who are the signatories on the
8 bank account of the Liberman Group at
9 Bethpage Federal Credit Union?

10 A. I believe it is myself and my
11 wife.

12 Q. Anyone else?

13 A. Perhaps my assistant.

14 Q. The next entity you mentioned
15 in your schedules was Hudson 805 LLC. Do
16 you recall what that entity is?

17 A. Wait a minute. Wait a minute.
18 I didn't mention that.

19 Q. It says you had a 12 and a half
20 per interest, and the value was zero.

21 A. Wait a minute. Not -- in the
22 list I just read to you?

23 Q. No, not in the list.

24 A. Oh, oh, oh.

25 Q. In your bankruptcy schedules.

1 B. Liberman

2 A. Okay. Sorry. Sorry. I was
3 just checking on the list.

4 Q. In the bankruptcy schedules you
5 said you have a 12 and a half percent
6 interest in Hudson 805 LLC?

7 A. Yes.

8 Q. Could you tell me what that
9 entity owns?

10 A. I believe it owns apartment
11 805, uh, at 421 Hudson Street.

12 Q. Is it the sole owner of that
13 entity -- of that apartment?

14 A. I don't know what you mean by
15 sole.

16 Q. In other words, I am trying to
17 understand whether Hudson 805 LLC is the
18 only owner of that -- of apartment 805.

19 Is it that you're not
20 individually a co-owner, your wife is not a
21 co-owner of the apartment, of the real
22 estate?

23 A. No. Hudson 805 is the owner.

24 Q. Okay.

25 How about the unit where your

1 B. Liberman

2 office is in the basement of the building?

3 A. Yes.

4 Q. Is that also owned by Hudson
5 805?

6 A. No, no.

7 Q. What entity owns the condo unit
8 in the basement, the one where your office
9 is?

10 A. Mountbatten Equities.

11 Q. How did you determine the value
12 of Hudson 805 LLC?

13 A. Well, I generously took the
14 value at about nine million six, which was
15 a 20 percent discount off the value at the
16 top of the market when it was appraised at
17 12,000,000.

18 And then from that I subtracted
19 the obligations that are senior to the
20 equity interest.

21 Q. Other than the mortgage to Mr.
22 Rosenberg, what other liens are on that
23 property?

24 A. Um, approximately \$6,000,000
25 plus default interest for about a year and

1 B. Liberman

2 a half, which I have not calculated, to
3 Axos Bank for a first mortgage.

4 Then there is the second
5 mortgage that Mr. Rosenberg has.

6 Then there is the -- I don't
7 know which is senior. I suppose senior to
8 all of that is the real estate taxes, which
9 at this point are somewhat in excess of a
10 million two.

11 And then beyond that there is
12 the real estate taxes, the mortgage. And
13 then there is a common charges due. And I
14 believe that's close to \$1,000,000 as well.

15 So, I think that adds up to
16 well in excess of the nine six. So that's
17 pretty generous.

18 The nine six is what I
19 estimated to be the market value, you know,
20 coming off the \$12,000,000 appraisal
21 adjusted for the collapse of the market of
22 20 percent.

23 Is that helpful?

24 Q. You answered the question. So,
25 yes, it is helpful.

1 B. Liberman

2 I have a -- going back to the
3 Liberman Group. Does it also own an
4 interest in an entity called Winter Lab
5 LTD?

6 A. No. The Winter Lab -- let me
7 see. I have the coffee spills on it. Hold
8 on a second.

9 The corporation, the interest
10 of the corporation are not owned by the
11 LLC. The interest of the corporations are
12 owned directly by the trusts for the
13 individual children. That's the way the
14 estate attorney set it up.

15 Hold on. I have it here, I
16 think. Hold on.

17 Winter Lab is owned by the
18 individual trust.

19 Q. And do you own any percentage
20 in that?

21 A. Yes. Yes. Here it is. Winter
22 Lab -- uh -- uh, actually, no, I don't.
23 That's all -- oh, wait.

24 Sorry. What's the question
25 again?

1 B. Liberman

2 Q. Do you own any interest in
3 Winter Lab LTD?

4 A. Uh, according to this, no.

5 Q. Who were the owners of Winter
6 Lab LTD?

7 A. Aaron trust, Ava trust, Leah
8 trust, Stella trust and Zoe trust.

9 (Whereupon, the Reporter asked
10 for clarification.)

11 A. Aaron trust, Ava trust, Leah
12 trust, L-E-A-H, Zoe, Z-O-E, and Stella,
13 S-T-E-L-L-A.

14 Q. And who is the manager of that
15 company?

16 A. I'm not certain. It says here
17 Phyllis, but I believe I am as well.

18 Q. And do you and/or Phyllis own
19 any percentage in that company as the
20 managers?

21 MR. ROSEN: Lenard, could you
22 repeat that?

23 THE WITNESS: Could you repeat
24 your question, Mr. Schwartzer.

25 Q. Do you or Phyllis own -- you

1 B. Liberman

2 believe, you said, that you and Phyllis are
3 the managers of that entity. I was asking
4 whether you or Phyllis own any percentage
5 interest in that company.

6 A. I'm not sure from the
7 information I have here.

8 Q. At any time did you have an
9 interest in that company?

10 A. Oh, back before 2014, yes.

11 Q. And did you transfer your
12 interest to the children's trusts at that
13 time?

14 A. In 2013 and '14, yes.

15 Q. Did you receive anything, any
16 consideration back from the children for
17 those transfers?

18 A. No.

19 MR. ROSEN: Excuse me. Hold
20 it.

21 Lenard, can you hear?

22 MR. SCHWARTZER: Barely, about
23 every other word.

24 MR. ROSEN: Hold on a minute.

25 Can you hear me now?

1 B. Liberman

2 MR. SCHWARTZER: Yes.

3 MR. ROSEN: I'm objecting to
4 the question.

5 MR. SCHWARTZER: Okay.

6 Q. Mr. Liberman, you still have to
7 answer the question. Did you receive any
8 consideration from the children's trusts?

9 A. No, I did not receive any
10 consideration. Thank you. Kiss on the
11 cheek. That's it.

12 Q. There is another -- obviously
13 there is another entity listed on your
14 bankruptcy schedules, Mountbatten Equities,
15 which is a limited partnership.

16 Do you still own an interest in
17 that?

18 A. It's part of this entire
19 transaction with Rosenberg. And I know I
20 no longer am manager. And I think I still
21 have one percent of Mountbatten Equities.

22 Q. Well, your schedules actually
23 says you own 42.33 percent.

24 A. I did own that. It's confusing
25 to me as to what stage this is. I probably

1 B. Liberman

2 still own it. It is contracted to be sold.

3 Right. That's what I would
4 own, 43 -- right. My 40 percent, plus what
5 my father left me. And -- that would be
6 it, yeah.

7 Q. How did you -- well, let's say
8 -- what does Mountbatten Equities still
9 own?

10 A. Mountbatten Equities still owns
11 the basement, first floor, ninth floor and
12 tenth floors of 421 Hudson Street, along
13 with apartment -- an interest in apartment
14 525, a 20 percent -- a 38 percent interest,
15 I believe, in apartment 525.

16 Q. In the past two years has
17 Mountbatten Equities sold any properties?

18 A. In the past two years?

19 Q. And when I say sold, I mean
20 transferred, gave up, any kind of
21 transaction?

22 A. I understand. Uh, I don't
23 think so.

24 Q. Okay.

25 Other than the real estate at

1 B. Liberman

2 421 Hudson Street, does Mountbatten
3 Equities own anything else?

4 A. No.

5 Q. How did you value your interest
6 in Mountbatten Equities?

7 A. It depends on what date. On
8 what day?

9 Q. As of the date of the petition
10 you said your 42 percent interest was worth
11 \$65,000. That sort of indicates to me that
12 the value of the property is about --
13 everything owned by Mountbatten Equities,
14 the net value is about 150,000.

15 A. No, about a million something.
16 Oh, 150. Yeah, 150. Okay. How that comes
17 about is it was not receiving any income.
18 It is unlikely receiving any income from
19 the fitness center, which was \$300,000 a
20 year.

21 Actually, no. It was \$70,000 a
22 year. And the only value it had was in the
23 basement, which is actually liability.

24 But it did own 38 percent of --
25 38 percent of apartment 525, which is

1 B. Liberman

2 probably -- 525. It might have been a
3 million dollar apartment.

4 I don't know if there is any
5 financing at the moment. I don't think so.

6 Q. Well, that's what is troubling
7 to me. If that's a million dollar
8 apartment, and if there's no financing
9 against it, how could your 42 percent be
10 worth only 65,000 and not something --

11 A. Because it is 42 percent of 38
12 percent. Sorry, It's a little complicated.

13 Q. Okay.

14 How did you value the ninth
15 floor of 421 Hudson?

16 A. The first floor, ninth floor
17 and tenth floors is the Equinox Fitness
18 Center.

19 If you capitalize the value of
20 that...

21 (Whereupon, the Reporter asked
22 for clarification.)

23 A. Equinox Fitness Center pays
24 rent to the interim company, which pays it
25 to Hudson Leroy. And Hudson Leroy pays

1 B. Liberman

2 \$70,000 a year to Mountbatten Equities.

3 But since Hudson Leroy was not getting any
4 money from -- eventually from Equinox, uh,
5 it didn't pay the \$70,000 a year to
6 Mountbatten.

7 So, the value is probably
8 limited, some speculative value as to what
9 that rent might be.

10 We know what the rent would be.
11 Well, it's speculative as to when it would
12 be paid, and if it would be paid in full.

13 So, the only thing that has
14 value that can be determined is that
15 apartment 525.

16 The rest of the property that
17 owns the basement runs at a loss. Between
18 the common charges and the taxes, that
19 loses money. I don't think I considered
20 that in the calculation.

21 Q. Is there a tenant in the
22 basement?

23 A. No.

24 Q. Has there ever been a tenant in
25 the basement?

1 B. Liberman

2 A. There was a tenant in the
3 basement. It was a music studio. It was
4 moved out in 2020.

5 Q. Has Mountbatten Equities
6 received any payments from any of its
7 sources in the last year?

8 A. No.

9 Q. Have you received any payments
10 from Mountbatten Equities in the last year?

11 A. Not to my knowledge.

12 Q. There is an entity called 305
13 Second Avenue Association LLP of which you
14 are a limited partner at this time,
15 according to your schedules.

16 Do you know what that entity
17 is?

18 A. Yes.

19 Q. At one time were you the
20 general partner of that entity?

21 A. Yes.

22 Q. And when did you cease being
23 the general partner of that entity?

24 A. October of 2020.

25 Q. And was that part of the

1 B. Liberman

2 transaction you made with Mr. Rosenberg's
3 company?

4 A. Yes.

5 Q. What does 305 Second Avenue
6 Association own?

7 A. Three or four apartments at 305
8 Second Avenue, uh, the commercial space at
9 305 Second Avenue, which is currently
10 leased to New York University Langone
11 Hospital.

12 Uh, and it owns property in Las
13 Vegas. I think it is 310 to 330 East
14 Charleston Boulevard in Las Vegas.

15 Q. Did 302 Second Avenue
16 Associations own -- sell any of its
17 property in the last couple of years?

18 A. It's 305 Second Avenue
19 Associates.

20 Q. Associates, yes.

21 A. It's 305, not 302.

22 Q. Did it sell any of its
23 apartment units in the last two years?

24 A. In the last two years?

25 Q. Two years.

1 B. Liberman

2 A. Sorry? How many?

3 Q. Two. Two years.

4 A. Two?

5 Q. Last two years.

6 A. Yes.

7 Q. And what apartments did it
8 sell?

9 A. Oh, gosh. Uh --

10 Q. I don't need the apartment
11 numbers. I mean, did it sell one unit?
12 Did it sell seven?

13 A. One, two -- I think it sold
14 three units. So, I believe it sold three
15 units in the last two years.

16 Q. Did it receive any money from
17 the sale of those units?

18 A. Yes.

19 Q. And at that time of the sale of
20 the units, were you one of the general
21 partners of 305 Second Avenue Associates?

22 A. Yes.

23 Q. What happened to those -- well,
24 how much did 305 Second Avenue Associates
25 receive from the sale?

1 B. Liberman

2 A. I'm not certain.

3 Q. Could you give me a range? Was
4 it \$10,000 or a million?

5 A. Probably close to 1,000,000.

6 Q. Okay.

7 And where was the -- where did
8 that million dollars go?

9 A. The million dollars went to the
10 Pennybacker loan requirements, which
11 required reserve be maintained, and we were
12 using the funds from that financing to
13 renovate other apartments for sale. So, it
14 effectively went back into the building.

15 Q. Did you receive any funds from
16 305 Second Avenue Associates in the last
17 two years?

18 A. In the last two years? Not
19 that I recall.

20 Q. How did you value your
21 interest, your 33 percent interest in 305
22 Second Avenue Associates?

23 A. I estimated the value of the
24 apartments that were not sold. I estimated
25 the cost of completing the work requirement

1 B. Liberman

2 in those apartments to get a certificate of
3 occupancy so they could be sold.

4 Uh, I estimated the value of
5 the commercial lease, and the likelihood of
6 it being refinanced when that mortgage was
7 close to being due.

8 I think it was due last
9 October, if I recall, or this past
10 February. I'm not certain. But you know,
11 that's how I valued it.

12 Q. Do you have any appraisals for
13 any of these properties?

14 A. There may be an appraisal in
15 connection with the refinancing and the
16 construction loan from two or three years
17 ago. Yeah.

18 Q. For which property?

19 A. 305 Second Avenue.

20 Q. Okay.

21 A. Oh, and there may be an
22 appraisal on -- there may be -- there is --
23 I know the Meadows Bank did an appraisal on
24 the property in Las Vegas.

25 Q. Okay.

1 B. Liberman

2 Do you have those appraisals?

3 A. Not easily. I am without any
4 assistance. So, I'm sure that's somewhere
5 in this office.

6 Although it would take me
7 awhile. You might get it from the Meadows
8 Bank for that one.

9 Q. Okay.

10 A. I guess I could ask the broker
11 if there was an appraisal done on the --

12 Q. In the settlement agreement it
13 mentions a November 20th -- in the
14 settlement agreement -- in the settlement
15 motion, the motion to approve the deal with
16 three zero -- three five -- whatever it is,
17 305-421 Inc., in that motion it mentions
18 that there was a November 20th, 2020 loan,
19 \$80,000 from 3-4 Lender secured by your
20 interest in 305 Second Avenue.

21 Do you recall that?

22 A. Yes.

23 Q. Who are the principals of 3-4
24 Lender?

25 A. I'm not certain.

1 B. Liberman

2 Q. Who did you deal with with
3 regard to 3-4 Lender?

4 A. I dealt with my attorney,
5 Mr. Bitsky.

6 Q. Okay.
7 Your attorney wasn't the
8 lender. Do you know who the lender was?

9 A. It's not in the --

10 MR. ROSEN: Objection.

11 A. It's not in the documents?

12 Q. Well, I know that three -- 3-4
13 Lender LLC was formed by the firm of
14 Rosenberg & Estis, okay? And then somebody
15 loaned you \$80,000; is that correct?

16 A. If that's what it says. Yeah,
17 if that is what it says.

18 Q. But can you tell me the person
19 who provided the funds for you, the
20 \$80,000?

21 A. It's --

22 MR. ROSEN: He answered.

23 A. It's not clear to me.

24 MR. ROSEN: Len, can you hear
25 me?

1 B. Liberman

2 A. It was not clear to me who it
3 was.

4 Q. Huh?

5 A. It was not clear to me who it
6 was.

7 Q. Who did you speak to about
8 getting the loan?

9 A. Um, my counsel.

10 Q. Well, before you went to your
11 counsel's saying I am getting this \$80,000
12 loan, didn't you know that somebody was
13 going to loan you \$80,000?

14 A. It was someone with Rosenberg &
15 Estis. They would be the company that did
16 that. You can ask them.

17 Q. Okay.

18 I understand Rosenberg & Estis
19 represents the lending company, but who did
20 you speak to about getting an \$80,000 loan
21 that you -- and you signed -- eventually
22 got the \$80,000 loan in November of 2020?

23 You had to speak to someone,
24 didn't you?

25 A. Yeah, I remember speaking to my

1 B. Liberman

2 attorney, who was speaking to Rosenberg &
3 Estis. I spoke to my attorney about the
4 terms, and, uh, he spoke to whoever it was
5 at Rosenberg & Estis.

6 Q. I understand that.

7 But how did you -- when you
8 went to speak to your attorney about the
9 terms of the loan, who told you that they
10 were even going to make a loan?

11 A. It was part of the entire, uh,
12 program of the motion, uh, and the -- what
13 they call the DIP.

14 Q. This is before the bankruptcy.
15 So, I'm asking you, was there someone who
16 said to you they would make that \$80,000
17 loan, and who was that person? Or what
18 person --

19 A. I believe it was either -- um,
20 I'm not certain. I'm not certain who it
21 was.

22 Q. Okay.

23 Now, you mentioned a program.
24 When you said, oh, this was part of the
25 program, what program was that part of?

1 B. Liberman

2 A. The bankruptcy and the ability
3 to have, uh, 421-305 Corporation get an
4 early agreement from the court that the
5 property could be sold to it before the
6 value decreased further because of the
7 various defaults on all of the loans that
8 were outstanding.

9 Q. Who came to you with the
10 program?

11 A. Oh, I discussed that with Gary
12 Rosenberg.

13 Q. So, was this \$80,000 loan part
14 of that program?

15 A. I believe so. I'm not certain
16 of that details, but I believe so.

17 Q. With regard to the program that
18 Mr. Rosenberg has presented to you, who was
19 representing you?

20 A. Mr. Bitsky.

21 Q. And what firm is Mr. Bitsky
22 with?

23 A. Uh, Bensinger, or McGrail &
24 Bensinger, or Bensinger & McGrail.

25 Q. And are they located in

1 B. Liberman

2 Manhattan?

3 A. I believe they have a Manhattan
4 address.

5 Q. Do you know who the principals
6 of 3-4 Lender are?

7 A. I believe it's the Rosenbergs.

8 Q. When you say the Rosenbergs,
9 that's a plural?

10 A. Yes.

11 Q. Is it someone other than Gary
12 Rosenberg?

13 A. His son Adam.

14 Q. Part of the agreement says that
15 305-421 LLC has access to, and I quote,
16 \$4,000,000 immediately available funds.

17 Have you seen documentation of
18 that?

19 A. No.

20 Q. In the agreement it says that
21 you have to obtain -- uh, actually, the
22 whole transaction is subject to obtaining
23 recognition agreements from the ground
24 lessors and the condominium boards.

25 Have those recognition

1 B. Liberman

2 agreements been obtained?

3 A. I'm sorry, which boards?

4 Q. It says from the ground lessors
5 and condominium boards. It doesn't
6 identify them in the document.

7 A. I'm sorry, I did not understand
8 the first one. I understand condominium
9 board, but preceding that, what does it
10 say?

11 Q. It says that the deal is -- the
12 program is conditioned upon receiving
13 recognition agreements from ground lessors
14 and condominium boards.

15 A. Ground lessor?

16 Q. Yes.

17 A. Okay.

18 Q. Have those agreements been
19 obtained?

20 A. This is for 305 Second Avenue?

21 Q. It's for the settlement -- the
22 agreement you made with 305-421 for all the
23 different properties.

24 A. I'm not certain. I'm not
25 certain.

1 B. Liberman

2 Q. Have you seen any releases of
3 your guarantees?

4 A. Have I seen any release of my
5 guarantees?

6 Q. Yes.

7 A. No.

8 Q. Do you have an understanding of
9 when those releases are supposed to be
10 obtained as part of your program with Mr.
11 Rosenberg?

12 A. I'm not clear on that detail.

13 Q. Has the final version of the
14 profit participation agreement with Mr.
15 Rosenberg's entities been negotiated?

16 A. Waterfall of the funds?

17 Q. Yes.

18 A. Yes, yes, that's negotiated,
19 yes.

20 Q. Is that the final agreement
21 attached to the motion, to your knowledge?

22 A. I'm not certain without looking
23 at it. I presume it is.

24 Q. Who did you discuss the terms
25 of the waterfall agreement with?

1 B. Liberman

2 A. My attorney, Mr. Bitsky, Jason
3 Bitsky.

4 Q. Did you ever discuss it with
5 Mr. Rosenberg?

6 A. There was one issue I discussed
7 with Mr. Rosenberg.

8 Q. Well, who came up with the idea
9 of a profit participation agreement?

10 A. Mr. Rosenberg's firm. I'm not
11 sure who.

12 Q. Other than the monies you
13 received -- other than the monies you
14 received under the profit participation
15 agreement, are you receiving any other
16 money from this transaction?

17 A. Well, there is a proposed DIP
18 in which I would receive some money.

19 Q. Well, actually, you would be
20 loaned that money; isn't that correct?

21 A. Yes. I would be loaned that
22 money. I would be paid out of the proceeds
23 of the liquidation, the waterfall.

24 Q. Okay.

25 In the settlement agreement it

1 B. Liberman

2 says that Mr. Rosenberg's entities have
3 been in negotiations with a number of
4 lenders. What do you know about those
5 negotiations?

6 A. I think he has completed his
7 negotiations and closed the Pennybacker.

8 There was another entity called
9 G4, which sold its interest to some other
10 third party. And I believe he successfully
11 negotiated that.

12 I think he is in conversations
13 with Bethpage Federal Credit, whatever it
14 is, and he is in conversation with Meadows
15 Bank. I know he got an extension from
16 Meadows Bank.

17 He is in conversations with
18 Argentse -- A-R-G-E-N-T-S-E -- who has the
19 \$19,000,000 loan on the Equinox Fitness
20 Center. Uh, that's all I recall at the
21 moment.

22 Q. There's another entity that you
23 used to own called or may still Orb
24 Management.

25 Do you know what that is?

1 B. Liberman

2 A. Yes.

3 Q. And what did it do?

4 A. It managed 421 Hudson Street
5 and the 305 Second Avenue.

6 Q. When you say managed, those are
7 condominium buildings, aren't they?

8 A. Yes.

9 Q. So, what did Orb Management do
10 with regard to managing those buildings?

11 A. Uh, hired and fired all
12 employees, arranged to comply with all
13 regulations. Uh, hired and supervised all
14 contractors.

15 Uh, took care of the collection
16 and disbursements of the common charges.
17 Uh, they generally managed the property.

18 Q. And does Orb Management still
19 manage those properties?

20 A. No.

21 Q. When did its management cease?

22 A. Uh, I think it ceased at the
23 end of -- I believe it was the end of
24 January 2021.

25 Q. Who took over the management?

1 B. Liberman

2 A. Uh, I forgot what they are
3 called. RMG Management.

4 Q. And do you know who the owners
5 of RMG Management are?

6 A. Uh, no.

7 Q. Do you have an idea?

8 A. I have the name in a proposal
9 somewhere, but I don't know offhand.

10 Q. Does Mr. Gary M. Rosenberg own
11 that entity, or control that entity, or
12 have a relationship to that entity, to your
13 knowledge?

14 A. No.

15 Q. Since Orb Management no longer
16 manages those properties, does it have any
17 other business?

18 A. No.

19 Q. In the last year has Orb
20 Management provided you any money?

21 A. Not that I recall.

22 Q. Well, in the schedules it
23 mentions a \$250,000 loan from Orb
24 Management to you in the past year.

25 So, would that help you?

1 B. Liberman

2 A. I think it was -- it might have
3 been in 2020.

4 Q. Right.

5 A. Not in 2021.

6 Q. And where would you -- when Orb
7 Management -- let me ask.

8 With regard to Orb Management,
9 who signed the bank -- the checks for Orb
10 Management?

11 A. Uh, my associate and owner for
12 50 years, Winthrop Chamberlain.

13 Q. Okay.

14 A. On occasion. On occasion. I
15 had the right to sign checks, but it was
16 not the standard practice.

17 Q. When you got the \$250,000 from
18 Orb Management, was that a distribution or
19 a loan?

20 A. It certainly was not a
21 distribution. It was most likely a loan.

22 Q. And did Mr. Chamberlain get a
23 loan at the same time?

24 A. I don't know.

25 Q. Well, who would know?

1 B. Liberman

2 A. The town, the bookkeeper.

3 Q. Well, who handles the books and
4 records of Orb Management?

5 A. Right now I believe there is a
6 new accountant that has it. The accountant
7 that we had for more many years died
8 December 24th of 2019.

9 Q. What is the name of the new
10 accountant for Orb Management?

11 A. I don't know.

12 Q. So, if I wanted -- if you were
13 going to ask for the books and records of
14 the company of which you are a part owner,
15 who would you go to?

16 A. Mabel Gomez.

17 Q. And who is Mabel Gomez?

18 A. Former bookkeeper.

19 Q. And is she still employed by
20 you?

21 A. No.

22 Q. Is she employed indirectly by
23 you by one of your companies?

24 A. No.

25 Q. And how would you contact her?

1 B. Liberman

2 A. By telephone.

3 Q. Okay.

4 I'm not going to ask you to put
5 her telephone number on the record, because
6 we want it -- that could be private.

7 But can you provide her address
8 and telephone number to your attorney so he
9 could provide it to me?

10 A. Sure.

11 Q. Thank you.

12 With regard to the apartment
13 still owned by 305, who is actually
14 collecting the rent?

15 A. The new management company.

16 Q. Okay.

17 And when they collect the rent,
18 do they then send some statement or
19 something to 305 so 305 knows what it is
20 supposed to receive?

21 A. Let me -- if I may correct
22 something. They don't work for 305. They
23 work for Rutherford Condominium. The new
24 managing agents work for the condominium,
25 not for the partnerships within which I

1 B. Liberman

2 have interest.

3 Q. And how do you know the rent is
4 collected or not collected?

5 A. Whatever rents are collected
6 are insufficient to meet the current
7 obligations. To meet the current
8 obligations I would have no idea what the
9 net amount -- because they are negative.
10 The net amounts are negative.

11 Q. So, that's the rent on
12 apartment 525. You're saying the total
13 rent collected is less than the obligations
14 owed?

15 A. Not 525. You asked me on 305.
16 Second Avenue Associates. 525 is the 421
17 Hudson Street.

18 Q. Okay.

19 So, you have an interest in a
20 company that owned 38 percent of apartment
21 525; is that correct?

22 A. Yes.

23 Q. Who collects the rent?

24 A. Angelo Gordon.

25 Q. And what happens with the rent

1 B. Liberman

2 after it is collected?

3 A. You know, I don't know. They
4 keep that account. Angelo Gordon is the
5 big partnership that bought the 120 or so
6 apartments, and then sold them off.

7 Q. Okay.

8 And how do you know you're
9 getting the right amount of money from
10 apartment 525?

11 A. We get an annual report.

12 Q. And how much money did they
13 provide you in the last year? Well, how
14 much did you receive from the rent of
15 apartment 525 in the last year?

16 A. Zero.

17 Q. And why is that?

18 A. Because the common charges and
19 the taxes exceed the rent. It's a rent
20 stabilized unit.

21 Q. Currently are you -- currently,
22 are you at least living temporarily in
23 apartment 805?

24 A. Yes. Until my heat and hot
25 water is fixed, repaired in East Hampton

1 B. Liberman

2 where I would like to be.

3 Q. Who else is currently residing
4 in apartment 805?

5 A. Currently, as of today? Just
6 my wife and I.

7 Q. Mr. Liberman, does Leah
8 Liberman live at 332 90th Street in
9 Brooklyn?

10 A. I don't think so. I think --
11 uh, actually, I have some excellent news,
12 Leah gave birth yesterday to a 7 pound 9
13 ounces daughter, who I'm going to visit
14 later this afternoon for the first time.

15 So, she is currently in the
16 hospital. But I believe she lives -- she
17 moved. Because she has a baby. She moved.

18 Q. Okay.

19 Do you know the -- do you know
20 her current address?

21 A. My wife has that. I do not.

22 Q. Again, I don't particularly
23 want to put that on a public record of a
24 deposition.

25 Will you provide that to your

1 B. Liberman

2 attorney so he will provide it to me?

3 A. Sure. I can do that.

4 Q. Thank you.

5 A. Now, you understand that Monday
6 and Tuesday are Shavuot.

7 Q. Oh, I'm not going to do
8 anything in the next --

9 A. Okay.

10 Q. -- before the 24th. Don't
11 worry about that.

12 A. Okay.

13 Q. I mean, we're not doing
14 anything before the 24th. Okay? And I
15 certainly would not want to -- I certainly
16 would like to give a new mother as much
17 time as she needs. Because she is going to
18 be tired and overworked no matter what I
19 do.

20 A. She doesn't have to, my wife
21 will.

22 Q. And your wife will probably be
23 tired too from helping. That being said,
24 let's go back and get through some of these
25 other questions quickly.

1 B. Liberman

2 Does Ava still live at the
3 address on Stuyvesant Oval?

4 A. Yeah. That's like -- yes.

5 Q. Does Stella still live on
6 Eastern Parkway?

7 A. Yes, but she recently moved
8 apartments as well.

9 Q. What is the apartment number?
10 If it is the same building, just give me
11 the apartment number.

12 A. I don't know.

13 Q. Okay.

14 Could you provide Stella's new
15 address to your attorney so he could
16 provide it to me privately?

17 A. Yes.

18 Q. Does Zoe Liberman still live on
19 Rugby Road?

20 A. That address I have. 406.
21 Yes.

22 Q. Do you think it is 406 Rugby
23 Road, not 400?

24 A. Maybe I'm wrong. I'll check.

25 Q. Please check and get back to

1 B. Liberman

2 your attorney.

3 A. I mostly communicate by e-mail
4 with the kids, so.....

5 Q. I understand. I understand.
6 And do you know where Aaron is
7 residing?

8 A. Aaron is now in Queens.

9 Q. Okay.
10 Could you give his address to
11 your attorney?

12 A. Uh, yes.

13 Q. And my guess, Mr. Liberman, you
14 may have to consult Phyllis to get the
15 exact numbers?

16 A. Yes, exactly. She sends the
17 birthday cards. Right.

18 Q. There are a number of trusts
19 for your children -- oh, sorry. There are
20 a number of trusts for your children.

21 Who prepared those trusts?

22 A. Neil Parsoff.

23 Q. And do you recall what year
24 that was done?

25 A. I think it was 2012 or 2013.

1 B. Liberman

2 Q. Okay.

3 And do you -- why were they
4 prepared?

5 A. They were prepared because I
6 was organizing -- I thought I was very
7 wealthy at the time, and I was.

8 And I was organizing my estate
9 for children and grandchildren at that
10 time. Of course there were exemptions,
11 which I was able to organize things to fit
12 within the limits that were set by the
13 government, the value of transfers.

14 Q. Who are the trustees of those
15 children's trusts?

16 A. I'd have to check. My wife,
17 and not sure who else.

18 Q. Have you borrowed money from
19 those children's trusts?

20 A. From the trusts?

21 Q. Yes.

22 MR. ROSEN: Lenard, can you
23 hear?

24 MR. SCHWARTZER: Yes.

25 MR. ROSEN: I am objecting.

1 B. Liberman

2 And I don't understand how this is
3 relevant to the motions that are
4 before the court.

5 MR. SCHWARTZER: Okay. I'll go
6 back to the other issues. That's
7 fine. I'm not going to disagree with
8 you.

9 Q. Currently, do you have any
10 income other than Social Security?

11 A. Unemployment.

12 Q. And other than unemployment and
13 Social Security, do you have any other
14 income?

15 A. Sadly not.

16 Q. Is anyone making the payments
17 for you with regard to your house in East
18 Hampton?

19 A. No.

20 Q. When is the last time you made
21 a mortgage payment on the house in East
22 Hampton?

23 A. Perhaps May of 2020. I'm not
24 certain. May of -- April or May of 2020.

25 Does that sound right? Maybe

1 B. Liberman

2 earlier than that. Maybe December of 2019.

3 Q. When is the last time you made
4 a real estate tax payment on the house in
5 East Hampton?

6 A. Um, I don't. Not since -- it
7 is a -- it's a proprietary lease. The
8 co-op pays the real estate tax.

9 Q. All right.

10 Who is paying the utilities on
11 the house in East Hampton?

12 A. I am.

13 Q. Who is paying the utilities on
14 the apartment, apartment 805?

15 A. Uh, I and my wife. She gets
16 Social Security as well.

17 Q. In your motion for the DIP loan
18 you said you needed \$47,000 a month for the
19 apartment 805 payment; is that correct?

20 A. Uh, that's the agreed to sum,
21 yes.

22 Q. Okay.

23 And what is that -- what amount
24 -- what is that going to pay?

25 A. It's going to pay the

1 B. Liberman

2 mortgages, the common charges, and the
3 taxes.

4 Q. And what percentage of
5 apartment 805 do you have a direct interest
6 in?

7 A. Twelve and a half.

8 Q. Okay.

9 Why aren't the other 88 and a
10 half percent -- 87 and a half percent of
11 the owners making these payments?

12 A. I suppose they don't have the
13 money. I'm not paying the rent. They
14 don't have the money.

15 Q. Aren't the other -- isn't 75
16 percent of it owned by your children's
17 trusts?

18 A. Yes.

19 Q. And are you saying that the
20 children's trusts don't have any money?

21 A. Pretty much.

22 Q. I noticed in the schedules that
23 you have substantial debts to your children
24 that are listed.

25 Did the children provide you

1 B. Liberman

2 with that money, or did it come directly
3 from the children, or from some other
4 source?

5 A. The children gave me that
6 money.

7 Q. Now, they gave you that money
8 out of their bank accounts?

9 A. Yes.

10 Q. Okay.

11 Did you receive any money from
12 the children's trusts?

13 A. Not that I recall.

14 Q. And over what period of time
15 have the children been loaning you that
16 money?

17 A. More than ten years, I expect.

18 Q. Now, you also listed a
19 substantial amount of personal loans over
20 the last ten years.

21 Why were you borrowing so much
22 money?

23 A. I was developing a major
24 project of 189 apartment units in
25 Westchester County.

1 B. Liberman

2 I was supporting that property,
3 and its mortgage payments, and the taxes,
4 and all of the costs of developing the
5 property, which included the professional
6 costs, the consultants costs, engineers,
7 uh, legal.

8 And then I fought off a
9 mortgage foreclosure on that property, all
10 of which required -- there's no income on
11 that property. It's vacant land.

12 So all of this required cash be
13 put in. And sadly that amounted to, I
14 believe, a little over \$18,000,000 over the
15 past 12 years or so.

16 Uh, and it's still a very
17 worthy project. Unfortunately the second
18 mortgage foreclosed. I gave them a deed in
19 lieu.

20 I had an option for a while to
21 purchase it back, but all of that expired
22 in October of '20.

23 October of '20 was the last
24 time I had any ability to continue that
25 project.

1 B. Liberman

2 And that was after about 18 --
3 \$18,000,700. I'll know when my accountant
4 finishes the autopsy. No, it's dead.

5 The biggest problem is all the
6 funds who were funneled into trying to keep
7 that alive.

8 Q. Have you prepared and filed
9 your 2019 federal income tax return?

10 A. Almost.

11 Q. Have you prepared and filed
12 your 2020 federal income tax return?

13 A. Not for a number of months.

14 Q. Wouldn't your 2019 tax return
15 be past due now?

16 A. Yes.

17 Q. Have you made any arraignments
18 with the IRS regarding your income tax
19 liabilities for the years 2012 through '14?

20 A. Have I made any arrangement
21 with the IRS?

22 Q. Yes.

23 A. No. I tried to for a number of
24 years. I had entered into a payment
25 schedule. I couldn't keep up.

1 B. Liberman

2 I had a conversation with them
3 yesterday. They now assigned someone else.
4 When it goes into bankruptcy, they assign a
5 special person. She called me yesterday.

6 Q. How did you determine the value
7 of the property at 10 Palomino Court?

8 A. There are three units that are
9 identical that are connected. It is -- the
10 whole development is 48 units.

11 Q. And with regard to the tax
12 return, who is preparing those tax returns
13 for you?

14 A. H, Bradford Miller.

15 Q. And where is he located?

16 A. Maybe it is Westchester County,
17 Orange County. I'm not sure.

18 Q. Can you provide his contact
19 information to your attorney so he can
20 provide it to me?

21 A. Certainly.

22 Q. Thank you. The property in --
23 that's being leased to the gym, is that the
24 Equinox Gym?

25 A. Yes.

1 B. Liberman

2 Q. And are they currently open?

3 A. They are currently open with
4 the capacity limited. I don't know what
5 the regulations are today, but they are
6 currently open and operating. Yeah,
7 operating.

8 Q. And are they paying rent?

9 A. I'm not certain of the amount
10 of rent they are paying.

11 Q. And who would be certain of
12 that?

13 A. They did pay the electrical
14 charge. I know that.

15 Q. Who? Mr. Liberman, you have to
16 look up when you talk, otherwise --

17 A. They did pay the electrical
18 charge. I'm certain of that.

19 Q. Okay.

20 Who would know what rents are
21 being paid by Equinox, if it is not you?

22 A. Mabel Gomez.

23 Q. Now, in what bank account would
24 the rent be deposited in?

25 A. Uh, I think that rent is

1 B. Liberman

2 deposited directly in an Argentic account,
3 according to that mortgage.

4 They pay directly to lockbox or
5 an account that Argentic has. And I think
6 it is in M & T Bank. That's where they
7 keep the special account.

8 Q. And do you get statements for
9 that special account?

10 A. I believe so. I mean, I don't,
11 Mabel does.

12 Q. Okay.

13 When you say Mabel -- where do
14 they -- how do they send the bank
15 statements to Mabel?

16 A. I don't know. I'm assuming
17 they send her a hardcopy. I assume she has
18 access to it.

19 Q. Well, before you -- before the
20 last six months, where did Mabel Gomez
21 work?

22 A. Orb Management, in the office
23 at 421 Hudson Street.

24 Q. Okay.

25 And were the statements mailed

1 B. Liberman

2 to 421?

3 A. I believe so.

4 Q. And where are you located right
5 now?

6 A. Right now I'm in the basement
7 of 421 Hudson Street.

8 Q. Is that the office where Mabel
9 works?

10 A. No. She works, uh, 75 or 100
11 feet south of here. 75 or 100 feet south
12 of where I am, she works.

13 Q. Seventy-five feet?

14 A. Yes. So, 100 feet, yeah.
15 Between 75 and 100 feet.

16 Q. So, it is within the same
17 building?

18 A. Yes.

19 Q. And who pays the rent for that
20 office?

21 A. Orb Management.

22 Q. Okay.

23 And who owns Orb Management?

24 A. Uh, Winthrop Chamberlain and
25 Barnet Liberman.

1 B. Liberman

2 Q. So, don't you have access to
3 that unit as well?

4 A. Yes, I do. I don't have access
5 to her office. It is locked.

6 Q. Okay.

7 But do you have the ability to
8 get the bank statements?

9 A. Not unless I broke the lock.
10 But you -- you know, I suppose you can get
11 them from the bank.

12 Q. Well, doesn't Ms. Gomez work
13 for you?

14 A. Not anymore.

15 Q. So, why is she even looking at
16 the -- why would she still receive the bank
17 statements for the company?

18 A. Because she is working through
19 the transition with all of the new
20 management company, and she is in charge of
21 the transition and all of the financial
22 transactions.

23 Q. Is anyone paying her a salary?

24 A. I'm not certain.

25 Q. Is anybody giving her money to

1 B. Liberman

2 do the transition work?

3 A. I have no specific knowledge,
4 but I presume they are. I presume she is
5 getting money. I have no specific
6 knowledge.

7 Q. Who would she be getting the
8 money from?

9 A. The Rutherford Place
10 Condominium. Uh, 305-421 corporation,
11 whatever it is called. The new management
12 company. Those are the people who are
13 benefitting from her work.

14 Q. Okay.
15 And who has the records of Orb
16 Management at this time?

17 A. Mabel and Win Chamberlain.

18 Q. And do you have access to those
19 records?

20 A. No.

21 Q. Do you think if you asked Ms.
22 Gomez to give you the records she would do
23 so?

24 A. I'm not sure.

25 Q. The property in Las Vegas on

1 B. Liberman

2 East Charleston Boulevard, is it listed for
3 sale?

4 A. It was. Uh, I think the
5 listing may have expired. Certainly I no
6 longer have anything to do with it.

7 So, I had a listing agreement
8 with John Tippins and Glenda Shaw.

9 Q. And what was -- was there a
10 price on the listing, an asking price on
11 the listing?

12 A. When I listed it, I told them I
13 wanted \$30,000,000.

14 Q. And subsequent to the original
15 listing, has there been any reduction --

16 A. Yes.

17 Q. -- in the price?

18 A. Oh, yeah. There is -- any
19 offer considered -- the impression that
20 they are giving in the market place is make
21 an offer and we will -- I think, I'm not in
22 charge of that, and I have no input in it.

23 Q. Are you aware of any offers to
24 purchase the property?

25 A. Prior to COVID I believe it was

1 B. Liberman

2 like an \$8,000,000 offer, \$7,000,000 offer
3 at the beginning of -- at the end of '19.

4 Q. Since then have you received
5 any offers or been informed of any offers
6 by these realtors?

7 A. No. I speak to Glenda Shaw
8 from time to time, and she tells me the
9 market is getting hotter, there are people
10 coming to see it. But there have been no
11 offers.

12 Q. Has there been any -- if there
13 have been no offers, have there been any
14 discussions with her about what the price
15 the buyers are thinking in terms of?

16 A. Not with me.

17 Q. Your communication with the
18 realtor, have they been by telephone, by
19 letter, or by e-mail?

20 A. Mostly by telephone. I think
21 exclusively by telephone. Or something
22 like -- I might have been to John's, said
23 give me a call, something like that. But
24 any conversations have been by telephone.

25 And I'm going to take another

1 B. Liberman
2 gentleman's break, if I may.

3 MR. SCHWARTZER: Please do. Go
4 ahead.

5 (Whereupon, a short recess was
6 taken.)

7 Q. Mr. Liberman, just a few more
8 questions for you. We said we would try to
9 do this in four hours. So, just a few more
10 questions.

11 A. Okay.

12 Q. Can you tell me what will
13 happen if you don't get the DIP loan?

14 A. I'm probably gonna stay at
15 Hudson Street for a couple of months until
16 I get the heat fixed. Then I'll move out
17 there.

18 And if I can't afford that, uh,
19 I'll probably move to my sister's, uh,
20 basement in Massachusetts.

21 Q. Other than the use of the
22 money, the DIP loan money for paying the
23 rent at the apartment, how else would the
24 DIP loan money help maintain or protect the
25 assets of this bankruptcy estate?

1 B. Liberman

2 A. I'm not sure I understand.

3 First of all, the apartment --

4 Q. You have to be closer to the
5 computer again.

6 A. The apartment is not being paid
7 for in the DIP loa. The only thing in the
8 DIP loan is the electricity, uh, you know,
9 the utilities for the apartment, until I
10 get the other one back together. Then I
11 won't have those expenses here.

12 The apartment's, you know,
13 under foreclosure as well. So, it will
14 take them awhile.

15 So, there was -- but I
16 certainly will have it all fixed up in East
17 Hampton if I get the DIP loan. Because I
18 need some of those funds to finish the
19 repairs.

20 Q. Well, you're feeling me --
21 didn't you just tell me that the apartment
22 805 has no equity?

23 A. Right. It's being --

24 Q. So, how does it -- how would
25 spending money on apartment 805 benefit

1 B. Liberman

2 creditors?

3 A. It doesn't.

4 Q. Or the bankruptcy estate?

5 A. It doesn't.

6 Q. I'll repeat the question.

7 Mr. Liberman, if apartment 805
8 has no equity, how would spending money on
9 apartment 805 benefit the bankruptcy estate
10 or the creditors?

11 A. I don't believe it would. And
12 I don't expect to spend money on apartment
13 805. The repairs I was talking about was
14 for the house in East Hampton.

15 Q. Okay.

16 How would spending money on the
17 house in East Hampton benefit the
18 bankruptcy estate or the -- or your
19 creditors?

20 A. I'm not sure I have an answer
21 for that.

22 Q. How would any of the funds that
23 you are requesting for the DIP loan benefit
24 the bankruptcy estate or your creditors?

25 A. Well, provide me shelter while

1 B. Liberman

2 I assist in the -- presuming that the
3 motion is accepted, I will be able to
4 assist in the maximization of the value
5 with the Rosenbergs, because of my special
6 and complete knowledge of the mechanics and
7 operations of the properties.

8 So, basically it's -- my
9 intellect and knowledge would benefit the
10 estate. And I have a place to park my
11 intellect and knowledge.

12 Q. Other than signing the final
13 assignment documents, what other
14 obligations do you have under the agreement
15 with Mr. Rosenberg?

16 A. I'm not certain.

17 Q. Do you have any agreement to be
18 employed by Mr. Rosenberg or any of these
19 entities after the transaction is
20 completed?

21 A. No.

22 Q. So, for what reason would you
23 be working on these issues?

24 A. Because it's the right thing to
25 do to maximize the values for all of these

1 B. Liberman

2 creditors.

3 Q. Does Mr. Chamberlain have the
4 same knowledge you have --

5 A. No.

6 Q. -- of these properties?

7 A. No. No.

8 Q. Has Mr. Chamberlain been
9 operating 305 Second Avenue?

10 A. No.

11 Q. Does Ms. Gomez have the
12 information that you would have about the
13 properties?

14 A. Different information.

15 Q. Is there any other assistance
16 that you have been using to manage the
17 property?

18 A. Uh, there's no one that has
19 unique and complete knowledge that I have.

20 Q. Under the agreement, do you
21 have any obligation to provide that
22 information to Mr. Rosenberg?

23 A. Not that I know of.

24 Q. Under the agreement with Mr.
25 Rosenberg it looks like the only thing that

1 B. Liberman

2 the bankruptcy estate will receive is the
3 profit participation agreement; is that
4 correct?

5 A. I believe so.

6 Q. And that money will go to the
7 bankruptcy estate, correct?

8 A. Yes.

9 Q. Okay.

10 Would you be receiving any
11 money from this?

12 A. If I get anything, it goes to
13 the bankruptcy estate.

14 Q. So, how are you going to live
15 after this deal is done?

16 A. My wife has asked the same
17 question. I don't know. I have an awkward
18 -- my screen comes up here from time to
19 time with some job offers. You know, I'll
20 get a job.

21 Q. Okay.

22 You know what, I think we are
23 done. I think you should go visit your
24 grandchild.

25 A. Thank you very much. Boy,

1 B. Liberman

2 that's great timing. I really appreciate
3 it. Thank you.

4 Q. All right. I can't think of
5 anything more important for you to do
6 today.

7 Certainly it is more important
8 to go and enjoy that new baby and your
9 daughter's joy in having a new baby, and I
10 wish them the best.

11 A. Thank you.

12 MR. SCHWARTZER: I was just
13 going to say that, Ms. Black, if she
14 wants to ask questions, she would
15 have the right to do so.

16 MS. BLACK: I don't want to ask
17 any questions at this point in time.
18 Thank you very much, Mr. Schwartzer.

19 MR. SCHWARTZER: I do have --
20 I'm sorry. I did have one question
21 that I wasn't sure of.

22 Q. How many apartments did 305
23 Second Avenue own about a year or two ago?

24 A. A year ago, uh, it owned -- it
25 owned around -- probably around ten.

1 B. Liberman

2 Q. And what happened to the ones
3 that it doesn't own any more?

4 A. Uh, a number of them were given
5 to -- back to Pennybacker, uh, along -- I
6 believe Mr. Rosenberg gave them the
7 apartments and a million and a half dollars
8 to relieve all the obligations of the loan.

9 And then a number of them -- I
10 think three; it is hard to tell. It is
11 either three or four, but there was a new
12 configuration which divided up some lots.

13 So, it is probably three and a
14 half units stayed. And those have to be
15 completed and sold.

16 Q. Okay.

17 I thought -- but I'm talking
18 about the ones that were sold. You said
19 about ten were sold, and only some of them
20 went to Pennybacker.

21 They were sold to third
22 parties, correct?

23 A. There were -- yeah, about three
24 were sold to third parties, right.

25 Q. And how much were those sold

1 B. Liberman

2 for?

3 A. Over two years ago. They were
4 sold for, I don't know, maybe maybe six or
5 \$7,000,000. It is a number that I can get
6 if you need it.

7 Q. Okay.

8 And where did that six or
9 \$7,000,000 go?

10 A. It went into the work to
11 renovate them, the payment of that
12 mortgage, and the work to renovate some of
13 the apartments that were not sold.

14 Q. And where would the net
15 proceeds have been deposited?

16 A. The net proceeds stayed, uh,
17 in -- they were used to reduce the
18 outstanding mortgage.

19 And whatever was not used to
20 pay the outstanding mortgage amount
21 Pennybacker, as was required by the loan
22 documents, since it was taking longer, they
23 required more funds to be placed in reserve
24 accounts.

25 So, there was very little, if

1 B. Liberman

2 any, uh, payout to the partnership of those
3 funds in the past three years.

4 Q. And who would have the records
5 of those transactions?

6 A. Um, Mabel would have those
7 records.

8 Q. Mabel Gomez?

9 A. Yes.

10 Q. Whose office is 75 feet away?

11 A. Yes. Yes.

12 Q. Okay.

13 And do you have access to those
14 records?

15 A. Uh, I could also find them from
16 the broker who sold them. You want to know
17 the amount that they sold for? What is it
18 that you really need to know?

19 Q. I would like to follow the
20 money trail.

21 A. I can tell you the money went
22 to the bank to pay down the mortgages. She
23 will have those records.

24 Q. Ms. Gomez would have those
25 records?

1 B. Liberman

2 A. Yes, yes.

3 Q. Okay.

4 And do you have access to those
5 records, if I ask you to produce them?

6 A. I wouldn't know where to look,
7 quite frankly.

8 Q. Thank you, Mr. Liberman. I
9 didn't want to hold you any longer.

10 A. Oh, no. I have ten more
11 minutes. You got it if you want.

12 Q. You mean I can't be nice?

13 A. I do appreciate it. I'll go
14 home and, you know, I help.

15 MR. SCHWARTZER: Ms. Lynch, I
16 am done asking questions. We could
17 go off record.

18 (Whereupon, at 4:23 P.M., the
19 Examination of this witness was
20 concluded.)

21

22 ° ° ° °

23

24

25

1 B. Liberman

2 D E C L A R A T I O N

3
4 I hereby certify that having been
5 first duly sworn to testify to the truth, I
6 gave the above testimony.
7

8 I FURTHER CERTIFY that the foregoing
9 transcript is a true and correct transcript
10 of the testimony given by me at the time
11 and place specified hereinbefore.
12
13
14

15 -----
16 BARNET LOUIS LIBERMAN
17

18 Subscribed and sworn to before me
19 this _____ day of _____ 20____.
20
21

22 -----
23 NOTARY PUBLIC
24
25

B. Liberman

E X H I B I T S

EXHIBIT	EXHIBIT	PAGE
	DESCRIPTION	
(None)		

I N D E X

EXAMINATION BY	PAGE
MR. SCHWARTZER	6

INFORMATION AND/OR DOCUMENTS REQUESTED	
INFORMATION AND/OR DOCUMENTS	PAGE
Request address and telephone number.	75
Request address.	78
Request address.	80
Check address.	80
Request address.	81
Request contact information.	89

QUESTIONS MARKED FOR RULINGS

PAGE	LINE	QUESTION
(None)		

B. Liberman

C E R T I F I C A T E

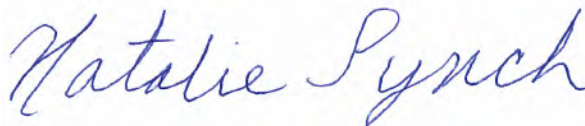
STATE OF NEW YORK)
: SS.:
COUNTY OF SUFFOLK)

I, NATALIE LYNCH, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 19th day of May 2021.



NATALIE LYNCH

CASE NAME: Barnet Louis Liberman
DATE OF DEPOSITION: 5/14/2021
WITNESSES' NAME: Barnet Louis Liberman

[illegible]

Barnet Louis Liberman

SUBSCRIBED AND SWORN TO BEFORE ME
THIS DAY OF , 20 .

(NOTARY PUBLIC)

MY COMMISSION EXPIRES:

[& - 80,000]

Page 1

&	18,000,000 87:14	24th 5:23 74:8	421-305 65:3
& 2:4,18 3:4 4:17	18,000,700 88:3	79:10,14	43 52:4
10:20 24:11,15,20	189 86:24	250,000 72:23	445 2:15
62:14 63:14,18	19 40:7 96:3	73:17	47,000 84:18
64:2,5 65:23,24	19,000,000 70:19	2850 2:5	48 89:10
91:6	1985 9:7	3	4:23 107:18
0	19th 110:20	3-4 3:5 61:19,23	5
01223 3:19	1:17 1:9	62:3,12 66:6	5/14/2021 111:3
1	1:30 6:5	30 4:16	50 73:12
1	1:37 6:11	30,000 43:12	525 52:14,15 53:25
1 2:5 4:17 5:14	2	30,000,000 95:13	54:2 55:15 76:12
6:12	2,000,000 12:12	300,000 53:19	76:15,16,21 77:10
1,000,000 47:14	16:20	302 57:15,21	77:15
59:5	20 43:12 46:15	305 44:6 56:12	560 3:14
10 6:24 89:7	47:22 52:14 87:22	57:5,7,9,18,21	6
10,000 43:9 59:4	87:23 108:19	58:21,24 59:16,21	6 109:11
100 92:10,11,14,15	111:22	60:19 61:20 67:20	6,000,000 46:24
100,000 43:10	2000 13:8	71:5 75:13,19,19	65,000 53:11 54:10
1000 43:9	2004 7:10	75:22 76:15 101:9	6901 3:10
10017 3:6	2009 12:15 15:23	103:22	7
10017-2803 2:20	16:20	305-421 3:4 61:17	7 78:12
10022 2:15	2012 81:25 88:19	66:15 67:22 94:10	7,000,000 96:2
11 1:4 13:14,19	2013 50:14 81:25	310 57:13	105:5,9
11556-0926 2:10	2014 50:10	323 3:18	70,000 53:21 55:2
11722 3:14	2017 9:18	33 59:21	55:5
11791 3:11	2019 15:24 16:21	330 57:13	733 3:5
11937 6:25	16:25 17:16 18:10	332 78:8	747 2:20
12 44:19 45:5	20:19 30:23 40:7	38 52:14 53:24,25	75 85:15 92:10,11
87:15	40:9 74:8 84:2	54:11 76:20	92:15 106:10
12,000,000 32:12	88:9,14	4	109:16
46:17 47:20	2020 38:11 39:16	4,000,000 66:16	78 109:17
120 77:5	39:20 40:23 43:3	40 52:4	7801-1 2:11
13 6:4	43:4,15 56:4,24	400 80:23	8
14 1:8 15:10,14	61:18 63:22 73:3	406 80:20,22	8,000,000 96:2
16:5 50:14 88:19	83:23,24 88:12	42 53:10 54:9,11	8-21-70611 1:3
14th 5:14	2021 1:8 71:24	42.33 51:23	80 109:18,19
150 53:16,16	73:5 110:20	421 17:7 19:15	80,000 61:19 62:15
150,000 53:14	20th 61:13,18	45:11 52:12 53:2	62:20 63:11,13,20
17 17:16	230 3:10	54:15 71:4 76:16	63:22 64:16 65:13
18 88:2	24491 110:22	91:23 92:2,7	

805 17:6 18:8,8 19:6,10,15 20:14 21:24 22:7,8,18 31:2,17,21,22 32:5 33:15,19 44:15 45:6,11,17,18,23 46:5,12 77:23 78:4 84:14,19 85:5 98:22,25 99:7,9,13 806 31:22 81 109:20 820 31:9,15,16 8333 42:19 84 9:7 87 85:10 88 85:9 89 109:21 89146-5308 2:6	accounts 86:8 105:24 acreage 40:8 action 110:16 actual 14:23 adam 66:13 add 16:19 additional 18:23 23:12,14 address 6:22 66:4 75:7 78:20 80:3 80:15,20 81:10 109:16,17,18,19 109:20 adds 47:15 adjusted 47:21 administer 4:11 afford 97:18 afternoon 78:14 age 8:3 agents 75:24 ago 22:14 23:2 32:7,9 37:8 60:17 103:23,24 105:3 agreed 4:5,20 5:16 84:20 agreement 5:15 61:12,14 65:4 66:14,20 67:22 68:14,20,25 69:9 69:15,25 95:7 100:14,17 101:20 101:24 102:3 agreements 66:23 67:2,13,18 ahead 23:7,9 33:25 97:4 alive 88:7 allowed 10:11 amount 43:5,9 76:9 77:9 84:23	86:19 90:9 105:20 106:17 amounted 87:13 amounts 76:10 angelo 76:24 77:4 annual 77:11 annum 15:11 answer 7:17 11:6 11:17 13:3 16:13 17:22 18:20 22:12 25:12,16 51:7 99:20 answered 47:24 62:22 answering 7:20 antonio 40:3 anybody 30:15 93:25 anymore 93:14 apartment 17:6 18:8,8 19:14 22:8 22:18 31:2,9,17,20 32:5,20 45:10,13 45:18,21 52:13,13 52:15 53:25 54:3 54:8 55:15 57:23 58:10 75:12 76:12 76:20 77:10,15,23 78:4 80:9,11 84:14,14,19 85:5 86:24 97:23 98:3 98:6,9,21,25 99:7 99:9,12 apartment's 98:12 apartments 31:6 57:7 58:7 59:13 59:24 60:2 77:6 80:8 103:22 104:7 105:13 apparent 26:19	apparently 37:6 appearances 2:24 appears 17:17 22:5 appraisal 32:9,15 47:20 60:14,22,23 61:11 appraisals 60:12 61:2 appraised 32:5,11 46:16 appreciate 103:2 107:13 approve 61:15 approximately 31:18 46:24 approximation 12:13 april 83:24 argentic 91:2,5 argentse 70:18 arraignments 88:17 arrange 20:17 arranged 19:20 20:22 22:5,6 71:12 arrangement 88:20 arranging 41:14 asked 22:14 23:3 24:3 27:23 28:8 30:4,8 49:9 54:21 76:15 94:21 102:16 asking 9:23 16:15 17:23 18:5,16 24:12,13,14 25:8 25:14 26:6,13 27:20 50:3 64:15 95:10 107:16
9			
9 78:12 90th 78:8 926 2:10 9th 2:15			
a			
aaron 49:7,11 81:6 81:8 ability 7:21 65:2 87:24 93:7 able 7:16 28:3 35:21 82:11 100:3 accepted 100:3 access 66:15 91:18 93:2,4 94:18 106:13 107:4 account 43:17,25 44:8 77:4 90:23 91:2,5,7,9 accountant 74:6,6 74:10 88:3			

assembled 40:2	103:23	108:1 109:1,2	64:19 65:15,16
assets 33:19 37:2,5	aware 5:19 33:21	110:1	66:3,7 70:10
37:7,24 97:25	95:23	baby 24:25 78:17	71:23 74:5 78:16
assign 89:4	awhile 61:7 98:14	103:8,9	87:14 91:10 92:3
assigned 89:3	awkward 102:17	back 16:20 34:3	95:25 99:11 102:5
assignment 100:13	axos 47:3	48:2 50:10,16	104:6
assist 100:2,4	b	59:14 79:24 80:25	ben 3:22
assistance 61:4	b 5:1,2,2 6:1 7:1	83:6 87:21 98:10	benefit 17:5 18:9
101:15	8:1 9:1 10:1 11:1	104:5	98:25 99:9,17,23
assistant 44:13	12:1 13:1 14:1	bank 43:17,19	100:9
associate 73:11	15:1 16:1 17:1	44:8 47:3 60:23	benefitting 94:13
associates 2:18 6:6	18:1 19:1 20:1	61:8 70:15,16	bensinger 65:23
57:19,20 58:21,24	21:1 22:1 23:1	73:9 86:8 90:23	65:24,24
59:16,22 76:16	24:1 25:1 26:1	91:6,14 93:8,11,16	best 7:21 12:19,23
association 56:13	27:1 28:1 29:1	106:22	15:19 16:4,15
57:6	30:1 31:1 32:1	bankruptcy 1:2	27:9 30:20 33:8
associations 57:16	33:1 34:1 35:1	3:18 7:4,4,9 44:25	103:10
assume 14:19 15:4	36:1 37:1 38:1	45:4 51:14 64:14	bethpage 43:20
37:9 91:17	39:1 40:1 41:1	65:2 89:4 97:25	44:9 70:13
assuming 91:16	42:1 43:1 44:1	99:4,9,18,24 102:2	beyond 47:11
assumptions 17:24	45:1 46:1 47:1	102:7,13	big 77:5
attached 68:21	48:1 49:1 50:1	barely 50:22	biggest 88:5
attorney 3:9 5:10	51:1 52:1 53:1	barnet 1:4,13 2:18	bill 38:12,17
5:25 14:20 18:3	54:1 55:1 56:1	3:9 6:21 9:24 13:3	birth 78:12
20:17 21:8 24:8,9	57:1 58:1 59:1	17:22 18:20 22:12	birthday 81:17
26:3,7,9 27:11	60:1 61:1 62:1	23:7 28:23 92:25	bitsky 62:5 65:20
48:14 62:4,7 64:2	63:1 64:1 65:1	108:15 111:2,3,21	65:21 69:2,3
64:3,8 69:2 75:8	66:1 67:1 68:1	basement 46:2,8	black 3:15 103:13
79:2 80:15 81:2	69:1 70:1 71:1	52:11 53:23 55:17	103:16
81:11 89:19	72:1 73:1 74:1	55:22,25 56:3	blood 110:16
attorneys 3:4	75:1 76:1 77:1	92:6 97:20	board 9:12 67:9
authorized 4:11	78:1 79:1 80:1	basically 41:17	boards 66:24 67:3
autopsy 88:4	81:1 82:1 83:1	100:8	67:5,14
ava 49:7,11 80:2	84:1 85:1 86:1	beckett 3:19	bookkeeper 16:2
available 66:16	87:1 88:1 89:1	beginning 96:3	74:2,18
avenue 2:15,20 3:5	90:1 91:1 92:1	behalf 34:25	books 74:3,13
44:6 56:13 57:5,8	93:1 94:1 95:1	believe 5:14 7:18	borrowed 82:18
57:9,15,18 58:21	96:1 97:1 98:1	12:14 17:13 34:16	borrowing 86:21
58:24 59:16,22	99:1 100:1 101:1	38:11,24 44:10	bought 77:5
60:19 61:20 67:20	102:1 103:1 104:1	45:10 47:14 49:17	boulevard 2:5
71:5 76:16 101:9	105:1 106:1 107:1	50:2 52:15 58:14	57:14 95:2

box 3:18 boy 102:25 bradford 89:14 breach 26:3 break 34:2 97:2 bridge 9:19 broke 93:9 broker 61:10 106:16 brooklyn 78:9 building 46:2 59:14 80:10 92:17 buildings 71:7,10 business 41:11,13 41:24 42:6,8,15 72:17 buyers 96:15	ceased 71:22 center 53:19 54:18 54:23 70:20 central 3:14 certain 9:17 11:25 12:17 29:25 32:25 35:4 38:4 49:16 59:2 60:10 61:25 64:20,20 65:15 67:24,25 68:22 83:24 90:9,11,18 93:24 100:16 certainly 29:5 73:20 79:15,15 89:21 95:5 98:16 103:7 certificate 60:2 certification 4:8 certify 108:4,8 110:9,14 chamberlain 73:12,22 92:24 94:17 101:3,8 chance 43:24 change 111:5 changes 32:14,21 chapter 1:4 charge 90:14,18 93:20 95:22 charges 47:13 55:18 71:16 77:18 85:2 charleston 57:14 95:2 check 15:25 17:3 35:12,14 80:24,25 82:16 109:19 checking 35:23 45:3 checks 73:9,15	cheek 51:11 children 21:13 48:13 50:16 81:19 81:20 82:9 85:23 85:25 86:3,5,15 children's 50:12 51:8 82:15,19 85:16,20 86:12 christine 3:15 circumstances 18:13 civil 1:15 clarification 23:4 24:4 27:24 49:10 54:22 clear 26:24 39:4 62:23 63:2,5 68:12 clearly 12:21 28:5 client 24:8,9 26:3 26:9 27:2 34:22 close 47:14 59:5 60:7 closed 70:7 closer 12:22 98:4 closing 9:18 clubs 37:13,13 coffee 35:25 48:7 cohen 3:17,19 collapse 47:21 collect 75:17 collected 76:4,4,5 76:13 77:2 collecting 75:14 collection 71:15 collects 76:23 come 18:16 22:24 29:20 30:7 34:3 38:7,13 86:2 comes 53:16 102:18	coming 47:20 96:10 commercial 57:8 60:5 commission 111:25 committee 3:9 common 47:13 55:18 71:16 77:18 85:2 communicate 81:3 communication 96:17 companies 42:12 74:23 company 11:22 12:3 19:17 20:22 20:25 40:9 42:7,8 42:9 49:15,19 50:5,9 54:24 57:3 63:15,19 74:14 75:15 76:20 93:17 93:20 94:12 complete 100:6 101:19 completed 70:6 100:20 104:15 completing 59:25 complicated 54:12 comply 71:12 compromised 7:23 computer 98:5 concierge 3:22 concluded 107:20 condition 7:19 conditioned 67:12 condo 46:7 condominium 66:24 67:5,8,14 71:7 75:23,24 94:10
c			
c 2:2 3:2 108:2 110:2,2 calculated 47:2 calculation 55:20 call 11:23 41:22 43:21 64:13 96:23 called 5:3 34:8 48:4 56:12 70:8 70:23 72:3 89:5 94:11 calls 40:16 candee 2:13,16 capacity 90:4 capitalize 54:19 cards 81:17 care 71:15 case 1:3 7:5 16:18 111:2 cash 87:12 casino 36:7 caused 34:17 cease 56:22 71:21			

[conference - discussed]

Page 5

conference 6:15 configuration 104:12 confirm 30:24 confirming 18:2 confusing 51:24 connected 89:9 connecticut 37:14 connecting 32:19 connection 12:8 13:6 60:15 consideration 18:21 50:16 51:8 51:10 considered 55:19 95:19 consisting 31:21 construction 60:16 consult 81:14 consultants 87:6 contact 74:25 89:18 109:21 contents 29:12 contested 7:3 10:4 10:6 continue 87:24 continued 2:24 contracted 52:2 contractors 71:14 control 72:11 controlling 22:7 conversation 29:3 29:13 70:14 89:2 conversations 70:12,17 96:24 coolage 36:8 copies 13:19 14:13 14:15,20,22,25 15:6,8	copy 4:14,17 14:18 17:15 corporation 48:9 48:10 65:3 94:10 corporations 35:9 48:11 correct 12:12,16 21:8 24:22 62:15 69:20 75:21 76:21 84:19 102:4,7 104:22 108:9 cost 59:25 costs 87:4,6,6 counsel 2:4,9,14 2:18 4:6,17 5:17 5:19 10:18 13:13 14:6 63:9 counsel's 63:11 country 41:20 county 17:16 86:25 89:16,17 110:5 couple 34:2 57:17 97:15 course 82:10 court 1:2 4:13 6:24 7:4,9 10:16 14:6 16:18 27:5 28:2,12 65:4 83:4 89:7 covered 26:8 covid 95:25 credit 43:22 44:9 70:13 creditor 3:18,21 creditors 2:5,9,14 3:9 99:2,10,19,24 101:2 cup 35:25 current 76:6,7 78:20	currently 43:20 57:9 77:21,21 78:3,5,15 83:9 90:2,3,6 d d 3:6 4:2 108:2 109:8 date 1:8 16:20 53:7,9 111:3 dated 12:15 15:23 daughter 78:13 daughter's 103:9 daughters 35:5 david 24:25 27:13 day 53:8 108:19 110:20 111:22 days 4:16 dead 88:4 deal 23:19 61:15 62:2 67:11 102:15 dealt 23:16 62:4 debt 30:9 debtor 1:5,13 2:19 2:19 debts 85:23 december 16:25 17:16 18:9 30:22 74:8 84:2 decide 25:19 decisions 12:3 decreased 65:6 deed 87:18 default 46:25 defaults 65:7 definitive 16:13 delaying 26:18 depends 53:7 deposited 90:24 91:2 105:15 deposition 1:12 4:8,9,14 5:12,13	5:21,25 6:7,12 7:2 8:21 10:12 28:15 78:24 111:3 depositions 27:5 description 109:5 desk 35:15 44:2 detail 68:12 details 29:18 65:16 determine 46:11 89:6 determined 55:14 developing 86:23 87:4 development 40:2 89:10 dialed 8:23 died 74:7 difference 8:3 different 31:23 67:23 101:14 difficult 31:4 difficulties 23:5 24:5 27:25 dip 64:13 69:17 84:17 97:13,22,24 98:7,8,17 99:23 direct 85:5 directly 48:12 86:2 91:2,4 disagree 83:7 disbursements 71:16 discount 46:15 discovery 14:7 16:17 discuss 29:9 30:14 68:24 69:4 discussed 65:11 69:6
--	--	---	---

discussions 22:16 96:14 distributed 41:19 distributing 41:18 distribution 42:23 43:6 73:18,21 distributions 42:24 district 1:2 divided 104:12 document 17:5,19 67:6 documentation 66:17 documents 14:21 14:23 30:13 62:11 100:13 105:22 109:14,15 doing 13:7 17:8 79:13 dollar 54:3,7 dollars 59:8,9 104:7 drink 8:8 due 6:13 47:13 60:7,8 88:15 duly 5:3 108:5 110:11	eastern 1:2 80:6 effect 4:12,15 effectively 59:14 eight 40:16 either 25:15 30:24 64:19 104:11 electrical 38:12,17 90:13,17 electricity 98:8 employed 74:19 74:22 100:18 employees 71:12 encumbering 17:6 ended 42:3 engineers 87:6 enjoy 103:8 entered 88:24 entire 51:18 64:11 entities 9:25 19:5 35:9,10 68:15 70:2 100:19 entity 11:20 20:5 22:7 34:8,9,12,15 36:25 37:17,24 38:5 39:22 40:19 40:22 42:14 44:14 44:16 45:9,13 46:7 48:4 50:3 51:13 56:12,16,20 56:23 70:8,22 72:11,11,12 equinox 38:5 54:17,23 55:4 70:19 89:24 90:21 equities 10:21 46:10 51:14,21 52:8,10,17 53:3,6 53:13 55:2 56:5 56:10 equity 46:20 98:22 99:8	errata 111:1 esq 2:6,11,16,21 3:6,11,15,17,19 established 26:11 estate 3:9,18 45:22 47:8,12 48:14 52:25 82:8 84:4,8 97:25 99:4,9,18,24 100:10 102:2,7,13 estimated 47:19 59:23,24 60:4 estis 3:4 10:20 24:11,15,20 62:14 63:15,18 64:3,5 eventually 55:4 63:21 evidence 7:14 exact 18:13 43:8 81:15 exactly 18:12 81:16 exam 7:10 examination 6:17 107:19 109:10 110:10,12 examined 5:5 exceed 77:19 excellent 78:11 excess 47:9,16 exclusively 23:18 96:21 excuse 36:9 50:19 execute 17:11 executed 13:20 14:16 17:2,3,4,20 19:2 executing 18:7 exemptions 82:10 exercise 33:23 exhibit 109:4,4	expect 86:17 99:12 expenses 98:11 expired 87:21 95:5 expires 111:25 explain 25:4 explained 22:25 extension 70:15
f			
f 4:2 110:2 family 12:7 34:23 35:2 far 8:3 father 52:5 favor 27:17 february 60:10 federal 1:15 3:14 27:5 43:21,21 44:9 70:13 88:9 88:12 feeling 98:20 feet 92:11,11,13 92:14,15 106:10 fella 24:24 file 2:11 10:7,9 filed 88:8,11 filing 4:7 final 30:18 68:13 68:20 100:12 financial 93:21 financing 54:5,8 59:12 find 21:5 35:22 106:15 finding 21:3 fine 8:6 25:10,17 26:25 33:25 83:7 finish 98:18 finishes 88:4 fired 71:11 firm 2:4 9:11,13 9:16 10:19,23			

24:11,15 29:24 62:13 65:21 69:10 first 5:3 10:18 12:14,19,24 36:21 36:22 47:3 52:11 54:16 67:8 78:14 98:3 108:5 fit 82:11 fitness 37:13,13 38:2,3 53:19 54:17,23 70:19 fits 20:11 five 61:16 92:13 fixed 77:25 97:16 98:16 floor 2:15 52:11 52:11 54:15,16,16 floors 52:12 54:17 follow 106:19 follows 5:6 force 4:15 foreclosed 87:18 foreclosing 44:5 foreclosure 87:9 98:13 foregoing 108:8 forgot 72:2 form 4:21 9:22 10:13 11:16 formation 20:22 34:17 formed 21:21,25 34:22 62:13 former 74:18 forming 20:25 forth 110:11 forward 5:24 fought 87:8 four 32:6,9 37:8 57:7 97:9 104:11	frankly 107:7 fred 3:11 freeze 24:25,25 25:4,9 27:13,14,18 29:3,4,17,25 freezing 41:16 fresh 36:17 41:5,7 41:24 friday 5:14 front 16:12 full 42:4 55:12 fund 36:18 42:3,4 42:24 funds 18:23 59:12 59:15 62:19 66:16 68:16 88:6 98:18 99:22 105:23 106:3 funneled 88:6 further 4:20 65:6 108:8 110:14	94:22 96:23 given 104:4 108:10 110:13 giving 8:7 13:24 14:4 18:21,22 93:25 95:20 glass 32:18 glenda 95:8 96:7 go 5:24 21:3 23:7 23:9 28:9 30:17 33:25 59:8 74:15 79:24 83:5 97:3 102:6,23 103:8 105:9 107:13,17 goes 89:4 102:12 going 7:12 9:21 18:15 23:14 25:2 25:7 26:2 33:22 35:14 48:2 63:13 64:10 74:13 75:4 78:13 79:7,17 83:7 84:24,25 96:25 102:14 103:13 gomez 74:16,17 90:22 91:20 93:12 94:22 101:11 106:8,24 gonna 97:14 good 8:25 26:23 gordon 2:11 76:24 77:4 gosh 58:9 government 82:13 grandchild 102:24 grandchildren 82:9 great 103:2 ground 66:23 67:4 67:13,15	group 3:8 14:4 34:8,18,22 35:7 36:4,7 37:4 39:19 40:10,18,21 42:18 42:23 43:16 44:8 48:3 guarantees 68:3,5 guess 29:24 38:21 40:7 61:10 81:13 gym 36:7 89:23,24 gyms 37:11
			h
	g 70:18 g4 70:9 gary 9:4 12:8,25 17:5 29:7 65:11 66:11 72:10 general 7:9 11:19 40:15 56:20,23 58:20 generally 71:17 generous 47:17 generously 46:13 gentleman's 97:2 getting 24:7 26:18 55:3 63:8,11,20 77:9 94:5,7 96:9 giampolo 3:6 8:19 8:22 9:21 10:3 give 16:13 59:3 79:16 80:10 81:10		h 49:12 89:14 109:2 half 31:13,14,16 44:19 45:5 47:2 85:7,10,10 104:7 104:14 hampton 6:25 77:25 83:18,22 84:5,11 98:17 99:14,17 hand 110:20 handles 74:3 happen 97:13 happened 20:16 58:23 104:2 happens 76:25 hard 17:25 31:3 104:10 hardcopy 91:17 hear 8:14,15 12:21 14:2 28:6,13,22,25 50:21,25 62:24 82:23 heard 41:4 hearing 5:22 28:16 heat 77:24 97:16 held 11:14

heller 3:22 help 72:25 97:24 107:14 helpful 47:23,25 helping 79:23 hereinbefore 108:11 110:11 hereunto 110:19 herschel 37:21 hint 10:17 hired 71:11,13 hold 23:21,22 35:18 36:10 48:7 48:15,16 50:19,24 107:9 holding 37:4 holdings 10:24 36:7 home 36:6,24 107:14 hospital 57:11 78:16 hot 77:24 hotter 96:9 hours 97:9 house 38:2,3,6 83:17,21 84:4,11 99:14,17 hudson 17:7 19:6 19:10,15 20:6,9,13 20:13,18 21:20,24 21:25 22:6,7 32:24 33:4,14,15 33:18,19 36:8 37:23,25 38:5,7,8 38:13,21 39:6,8,10 39:14,18 44:15 45:6,11,17,23 46:4 46:12 52:12 53:2 54:15,25,25 55:3 71:4 76:17 91:23	92:7 97:15 huh 63:4	39:25 40:19 44:20 45:6 46:20,25 48:4,9,11 49:2 50:5,9,12 51:16 52:13,14 53:5,10 59:21,21 61:20 70:9 76:2,19 85:5 interested 110:17 interim 39:9 54:24 interrupting 25:24 26:17,21 introduce 10:15 invest 42:10 investment 40:5 40:13 41:2 involved 11:21 involving 7:4 irs 88:18,21 islip 3:14 israel 36:6,24 issue 69:6 issues 83:6 100:23 item 36:22,22 41:4 iv 2:13	k
	i	j	kantrow 3:8,11 keep 28:3 77:4 88:6,25 91:7 kids 81:4 kind 37:9 41:11 52:20 kiss 51:10 know 8:2,4,18 9:4 9:9 16:13 17:9,14 19:4,6,9,10,19,22 19:23 20:5,8 28:19 33:17 43:8 45:14 47:7,19 51:19 54:4 55:10 56:16 60:10,23 62:8,12 63:12 66:5 70:4,15,25 72:4,9 73:24,25 74:11 76:3 77:3,3 77:8 78:19,19 80:12 81:6 88:3 90:4,14,20 91:16 93:10 98:8,12 101:23 102:17,19 102:22 105:4 106:16,18 107:6 107:14 knowledge 12:20 12:23 30:20 56:11 68:21 72:13 94:3 94:6 100:6,9,11 101:4,19 known 9:6 knows 75:19
	idea 40:12,25 69:8 72:7 76:8 identical 89:9 identify 67:6 ii 36:17,18 42:5 iii 36:15 39:23 immediately 66:16 important 103:5,7 impression 95:19 inability 6:14 inappropriate 26:2 included 87:5 income 53:17,18 83:10,14 87:10 88:9,12,18 incubator 42:9 indicates 53:11 indirectly 74:22 individual 48:13 48:18 individually 9:24 45:20 information 7:13 50:7 89:19 101:12 101:14,22 109:14 109:15,21 informed 96:5 input 95:22 instance 10:19,22 instruct 25:16 instructing 25:11 instruments 42:11 insufficient 76:6 intellect 100:9,11 interest 15:9,16,21 16:6,6 30:4 33:13 33:19 35:8 37:12		l
		j	l 4:2,2 5:2,2 49:12 49:13,13 108:2 lab 48:4,6,17,22 49:3,6

land 10:24 36:15 36:16 39:23 40:17 87:11 langone 57:10 las 2:6 57:12,14 60:24 94:25 lasix 7:24 law 2:4 3:8 9:13 29:24 layout 31:24 lead 7:14 leah 49:7,11 78:7 78:12 lease 37:25 38:7 38:25 39:10 60:5 84:7 leased 57:10 89:23 leases 38:10 leaving 7:24 left 8:12 52:5 legal 87:7 len 62:24 lenard 2:6 5:9 13:5 27:16,21 49:21 50:21 82:22 lender 3:5 9:19 61:19,24 62:3,8,8 62:13 66:6 lenders 70:4 lending 63:19 leroy 36:8 37:23 37:25 38:5,7,9,14 39:6,8,11,14,18 54:25,25 55:3 lessor 67:15 lessors 66:24 67:4 67:13 letter 44:3 96:19 liabilities 88:19 liability 53:23	liberman 1:4,13 2:19 3:10 5:1 6:1 6:21 7:1,2 8:1 9:1 9:3,24 10:1 11:1 12:1 13:1,15,21 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1,8 27:1,9 28:1 29:1,2 30:1,17 31:1 32:1 33:1 34:1,7,8,18,22,23 34:25 35:1,6,21 36:1,4 37:1 38:1 39:1,3,19 40:1,10 40:18,21 41:1 42:1,18,23 43:1,16 44:1,8 45:1 46:1 47:1 48:1,3 49:1 50:1 51:1,6 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1,7,8 79:1 80:1,18 81:1,13 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1,15 91:1 92:1,25 93:1 94:1 95:1 96:1 97:1,7 98:1 99:1,7 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1,8 108:1,15 109:1	110:1 111:2,3,21 lieberman 5:8 liens 46:22 lieu 87:19 likelihood 60:5 limited 51:15 55:8 56:14 90:4 limits 82:12 line 28:18 109:24 111:5 link 8:20 liquidation 69:23 list 35:12,13,22 36:4,22 42:3 44:22,23 45:3 listed 31:6,10 51:13 85:24 86:18 95:2,12 listing 95:5,7,10 95:11,15 little 54:12 87:14 105:25 live 78:8 80:2,5,18 102:14 lives 78:16 living 77:22 llc 2:5,9,14 3:4,5 3:23 19:6,10,14 20:6,9,13,14,18 21:20,24 32:24 33:5,15,16,18,20 34:8,18,22 35:7 36:4,7,7,8,8,15,17 36:17,24 37:4 39:23 40:18 41:9 44:15 45:6,17 46:12 48:11 62:13 66:15 111:1 llcs 35:9 llp 2:8 56:13	loa 98:7 loan 12:19,24 13:10 59:10 60:16 61:18 63:8,12,13 63:20,22 64:9,10 64:17 65:13 70:19 72:23 73:19,21,23 84:17 97:13,22,24 98:8,17 99:23 104:8 105:21 loaned 12:11 62:15 69:20,21 loaning 86:15 loans 65:7 86:19 located 65:25 89:15 92:4 location 31:7 lock 93:9 lockbox 91:4 locked 93:5 long 9:6 longer 51:20 72:15 95:6 105:22 107:9 look 35:16 90:16 107:6 looking 17:24 35:17 68:22 93:15 looks 101:25 loses 55:19 loss 55:17 lot 23:13 lots 104:12 louis 1:4,13 2:18 3:10 6:21 108:15 111:2,3,21 lp 36:18 42:4 lynch 1:16 107:15 110:7,23
--	--	---	---

m	96:9	minutes 6:4	68:21 84:17 100:3
m 5:2 9:4 12:8,25	marriage 110:16	107:11	motions 7:8,11,13
17:5 72:10 91:6	massachusetts	moment 23:2	7:15 83:3
mabel 74:16,17	3:19 97:20	29:18 54:5 70:21	mountbatten
90:22 91:11,13,15	matter 7:3 10:4,6	moments 22:14	10:20,21 11:2,3,4
91:20 92:8 94:17	79:18 110:18	monday 79:5	11:14 46:10 51:14
106:6,8	matters 7:10 9:14	money 23:12,13	51:21 52:8,10,17
mail 81:3 96:19	mature 30:9	23:14 39:19 40:10	53:2,6,13 55:2,6
mailed 91:25	maximization	55:4,19 58:16	56:5,10
maintain 97:24	100:4	69:16,18,20,22	move 97:16,19
maintained 59:11	maximize 100:25	72:20 77:9,12	moved 56:4 78:17
major 32:21 86:23	mcgrail 65:23,24	82:18 85:13,14,20	78:17 80:7
making 83:16	mcperson 2:4	86:2,6,7,11,16,22	music 56:3
85:11	meadows 60:23	93:25 94:5,8	muted 28:21
man 33:23	61:7 70:14,16	97:22,22,24 98:25	n
manage 71:19	mean 14:18 28:20	99:8,12,16 102:6	n 2:2 3:2 4:2 5:2,2
101:16	45:14 52:19 58:11	102:11 106:20,21	70:18 108:2 109:8
managed 71:4,6	79:13 91:10	monies 38:9 69:12	name 5:9 6:19
71:17	107:12	69:13	27:10 37:10 42:4
management	means 28:20	month 84:18	72:8 74:9 111:2,3
70:24 71:9,18,21	mechanics 100:6	months 40:16	named 24:24
71:25 72:3,5,15,20	medical 7:19	88:13 91:20 97:15	natalie 1:16 110:7
72:24 73:7,8,10,18	42:10	mooshie 13:13,25	110:23
74:4,10 75:15	meet 76:6,7	14:5,15,21 15:22	need 8:2,4,9 10:7
91:22 92:21,23	melter 12:6 37:22	17:14	58:10 98:18 105:6
93:20 94:11,16	member 11:23,24	mortgage 9:18	106:18
manager 33:3,4,6	20:13 34:11	17:4,15,18 18:7,18	needed 18:23
33:11,14 34:14	members 19:17	18:22 19:2,7,21,24	84:18
37:16 49:14 51:20	32:24	22:18,21,22 23:15	needs 79:17
managers 20:8	mention 44:18	24:21 25:5 27:15	negative 76:9,10
21:24 49:20 50:3	mentioned 39:22	29:10,20 30:15,19	negotiated 68:15
manages 72:16	44:14 64:23	30:22 33:2,3 44:5	68:18 70:11
managing 11:24	mentions 61:13,17	46:21 47:3,5,12	negotiations 70:3
19:16 20:13 32:24	72:23	60:6 83:21 87:3,9	70:5,7
71:10 75:24	miller 89:14	87:18 91:3 105:12	neil 20:23 21:6,7
manhattan 66:2,3	million 46:14	105:18,20	24:23 30:16 34:19
march 38:11	47:10 53:15 54:3	mortgages 85:2	81:22
39:15,19 40:22	54:7 59:4,8,9	106:22	net 38:6 53:14
marked 109:23	104:7	mother 79:16	76:9,10 105:14,16
market 31:4 46:16	minute 23:22 34:2	motion 10:7,8,10	nevada 2:6
47:19,21 95:20	44:17,17,21 50:24	61:15,15,17 64:12	

new 1:2,17 2:10,15 2:15,20,20 3:6,6 3:11,14 5:5 6:13 6:25 9:12 17:16 37:14 57:10 74:6 74:9 75:15,23 79:16 80:14 93:19 94:11 103:8,9 104:11 110:4,8 111:1 news 78:11 nice 107:12 nine 46:14 47:16 47:18 ninth 52:11 54:14 54:16 norway 41:18 notary 1:16 5:4 108:22 110:7 111:25 note 12:14 15:2,3 15:14 30:8 notes 12:12 13:14 13:19,25 14:5,11 14:14 15:5,10,17 15:21 16:6,7,10,11 16:14,16,22 18:17 notice 1:14 noticed 5:13 85:22 novak 3:22 november 61:13 61:18 63:22 number 13:23,24 37:14 41:15 70:3 75:5,8 80:9,11 81:18,20 88:13,23 104:4,9 105:5 109:16 numbers 58:11 81:15	numeral 36:16,18 nype 2:4,9,14 3:21 5:11 nype's 13:13 14:6 o o 4:2 5:2 49:12 108:2 oath 4:12 object 9:22 10:12 10:13 25:8 objecting 11:9,13 11:15 51:3 82:25 objection 11:5 13:2 17:21 18:19 22:11 23:6 25:17 25:21 62:10 objections 4:21 25:20 27:6,7 obligation 101:21 obligations 46:19 76:7,8,13 100:14 104:8 obtain 66:21 obtained 67:2,19 68:10 obtaining 66:22 obviously 51:12 occasion 73:14,14 occupancy 60:3 october 56:24 60:9 87:22,23 offer 95:19,21 96:2,2 offers 95:23 96:5,5 96:11,13 102:19 offhand 72:9 office 3:13 23:17 23:20 29:16,24 46:2,8 61:5 91:22 92:8,20 93:5 106:10	official 3:9 oh 22:2,23 23:10 44:24,24,24 48:23 50:10 53:16 58:9 60:21 64:24 65:11 79:7 81:19 95:18 107:10 okay 6:3 8:5,17 9:2 10:25 11:12 13:9 14:9 15:6 16:24 20:4 21:18 22:4 29:8 31:19 31:25 36:20 37:19 38:15 42:21 43:23 45:2,24 51:5 52:24 53:16 54:13 59:6 60:20,25 61:9 62:6,14 63:17 64:22 67:17 69:24 73:13 75:3 75:16 76:18 77:7 78:18 79:9,12,14 80:13 81:9 82:2 83:5 84:22 85:8 86:10 90:19 91:12 91:24 92:22 93:6 94:14 97:11 99:15 102:9,21 104:16 105:7 106:12 107:3 old 33:23 ones 15:23 104:2 104:18 op 84:8 open 90:2,3,6 operating 90:6,7 101:9 operations 100:7 opportunity 8:7 opposition 10:10	option 87:20 orange 89:17 orb 70:23 71:9,18 72:15,19,23 73:6,8 73:9,18 74:4,10 91:22 92:21,23 94:15 order 5:21 organize 20:18 82:11 organizing 82:6,8 original 4:9,17 15:5 95:14 ossining 10:24 11:20 ounces 78:13 outcome 25:20 110:17 outstanding 65:8 105:18,20 oval 80:3 overworked 79:18 owed 76:14 owned 9:25 46:4 48:10,12,17 53:13 75:13 76:20 85:16 103:24,25 owner 39:11,15 45:12,18,20,21,23 73:11 74:14 owners 49:5 72:4 85:11 owning 33:13 owns 19:14 35:8 35:11 36:5 39:25 45:9,10 46:7 52:10 55:17 57:12 92:23
---	---	--	---

p	partnerships 35:9 75:25	85:4	possession 2:19
p 2:2,2,21 3:2,2 4:2	party 10:3,5 70:10	perfectly 33:25	pound 78:12
p.m. 1:9 5:14 6:11 6:13 107:18	patented 41:14,15	perform 33:16	practice 73:16
p.o. 3:18	pay 30:5 38:12,17 55:5 84:24,25	period 7:25 8:11 86:14	preceding 67:9
page 2:24 109:4,10 109:15,24 111:5	90:13,17 91:4 105:20 106:22	person 12:2 20:21 24:10,19 26:11 62:18 64:17,18 89:5	prepared 81:21 82:4,5 88:8,11
paid 15:16 16:9 38:18,22 39:14,18 40:10 55:12,12 69:22 90:21 98:6	payee 15:4	personal 86:19	preparing 89:12
palomino 6:24 89:7	paying 15:20 16:5 16:21 84:10,13 85:13 90:8,10 93:23 97:22	personality 30:2	present 3:21
paper 35:22	payment 19:23 38:19 83:21 84:4 84:19 88:24 105:11	petition 53:9	presented 29:21 29:22,23 65:18
parcel 40:2	payments 18:25 19:7,20 30:21 40:22 56:6,9 83:16 85:11 87:3	ph 38:2	presume 68:23 94:4,4
park 2:15 100:10	payout 106:2	pharmaceutical 42:10	presuming 100:2
parkway 80:6	pays 54:23,24,25 84:8 92:19	phone 5:20 8:19 24:24 27:11 28:15 29:15,16 41:22	pretty 15:2 47:17 85:21
parsoff 20:23 21:7 24:23 25:3 27:12 30:16 34:20,25 81:22	pc 2:18 3:4	phyllis 13:15,20 19:18 49:17,18,25 50:2,4 81:14	prevent 7:20
parsoff's 29:15 34:21	pelta 3:22	physical 32:14	price 95:10,10,17 96:14
part 14:3 51:18 56:25 64:11,24,25 65:13 66:14 68:10 74:14	pending 7:8	place 94:9 95:20 100:10 108:11	principals 61:23 66:5
partial 38:18	pennybacker 59:10 70:7 104:5 104:20 105:21	placed 105:23	printing 38:2,3,6
participation 68:14 69:9,14 102:3	people 44:4 94:12 96:9	plaza 2:10 3:14	prior 95:25
particularly 78:22	percent 15:10,14 16:5 42:19,20 45:5 46:15 47:22 51:21,23 52:4,14 52:14 53:10,24,25 54:9,11,12 59:21 76:20 85:10,10,16	please 6:19,22 27:21 33:25 80:25 97:3	private 75:6
parties 1:14 4:7 104:22,24 110:15	percentage 42:17 48:19 49:19 50:4	pllc 3:8	privately 80:16
partner 11:19 40:15 56:14,20,23		plural 66:9	privilege 24:9 26:4 26:9 33:23
partners 36:15,16 39:23 40:17 58:21		plus 2:5,9,14 5:11 46:25 52:4	pro 3:17
partnership 11:19 51:15 77:5 106:2		point 21:19 22:20 22:21 30:3 35:25 43:7 47:9 103:17	probably 20:10 51:25 54:2 55:7 59:5 79:22 97:14 97:19 103:25 104:13
		pointing 28:11	problem 8:7 23:23 24:7 88:5
		portfolio 42:12	procedure 1:16
		portion 36:6	proceeds 38:7 69:22 105:15,16
		position 11:3,14 11:18,22	process 41:15
			processes 41:15
			produce 107:5

product 24:8 professional 87:5 profit 68:14 69:9 69:14 102:3 program 64:12,23 64:25,25 65:10,14 65:17 67:12 68:10 project 13:7 86:24 87:17,25 promissory 12:11 13:14,19,25 14:5 14:14 15:10,17,21 16:16 18:17 properties 52:17 60:13 67:23 71:19 72:16 100:7 101:6 101:13 property 9:20 39:11,15 46:23 53:12 55:16 57:12 57:17 60:18,24 65:5 71:17 87:2,5 87:9,11 89:7,22 94:25 95:24 101:17 proposal 72:8 proposed 2:18 69:17 proprietary 84:7 protect 97:24 protein 41:16 provide 75:7,9 77:13 78:25 79:2 80:14,16 85:25 89:18,20 99:25 101:21 provided 14:14,20 15:9,22 16:17 17:12,15 18:3,3,18 62:19 72:20	providing 13:12 13:18 public 1:17 5:4 78:23 108:22 110:7 111:25 purchase 87:21 95:24 purchasing 41:14 purpose 20:24 25:5 26:17 33:15 pursuant 1:14 7:7 put 23:14 75:4 78:23 87:13	real 45:21 47:8,12 52:25 84:4,8 really 7:6 20:7 103:2 106:18 realtor 96:18 realtors 96:6 reason 5:18 21:4 21:20 100:22 111:5 recall 13:12,22,24 14:10 15:12,13,18 15:20 16:8,21,23 17:8 20:12,15 21:2 22:9 29:11 30:6,12 32:8 33:10,12 34:9 35:10 43:7 44:16 59:19 60:9 61:21 70:20 72:21 81:23 86:13 receive 50:15 51:7 51:9 58:16,25 59:15 69:18 75:20 77:14 86:11 93:16 102:2 received 38:9 40:21 41:22 42:22 42:24 56:6,9 69:13,14 96:4 receiving 53:17,18 67:12 69:15 102:10 recess 6:8 34:5 35:19 36:11 41:22 97:5 recognition 66:23 66:25 67:13 recollect 18:12,13 recollection 15:20 16:4,16 17:10 18:6 27:10 38:20	record 6:20,23 25:18 27:8 28:4,5 28:9,11 75:5 78:23 107:17 110:12 recorded 17:15 records 14:24 16:12 74:4,13 94:15,19,22 106:4 106:7,14,23,25 107:5 red 28:18 reduce 105:17 reduction 95:15 refinanced 60:6 refinancing 60:15 reflect 28:6 reg 1:3 regard 11:2 24:20 25:4 37:23 40:17 62:3 65:17 71:10 73:8 75:12 83:17 89:11 regarding 88:18 regulations 71:13 90:5 related 7:7 110:15 relates 7:13 relating 7:10,14 relationship 72:12 relatively 5:20 relax 25:22 release 68:4 releases 68:2,9 relevant 83:3 relieve 8:8 104:8 rely 18:4 remember 13:18 14:4 18:7 20:11 29:14,14,17 63:25
	q		
	queens 81:8 question 11:16 13:17 22:15 27:3 30:18 39:4 47:24 48:24 49:24 51:4 51:7 99:6 102:17 103:20 109:24 questioned 14:10 questions 7:17,21 8:11 10:14 26:2 26:13,21,22,23,24 79:25 97:8,10 103:14,17 107:16 109:23 quickly 79:25 quite 107:7 quote 66:15		
	r		
	r 2:2 3:2 4:2 5:2,2 41:6,7 70:18 108:2 110:2 radler 2:8 range 43:12 59:3 rate 15:9 read 36:2 44:22		

[removed - secured]

Page 14

removed 32:20 renovate 59:13 105:11,12 rent 9:12 38:19,22 39:14 54:24 55:9 55:10 75:14,17 76:3,11,13,23,25 77:14,19,19 85:13 90:8,10,24,25 92:19 97:23 rented 37:13 rents 76:5 90:20 repaid 13:10 repaired 77:25 repairs 98:19 99:13 repeat 13:16 49:22 49:23 99:6 report 77:11 reporter 23:3 24:3 27:23 28:3,8,12 49:9 54:21 reporting 111:1 represent 10:5 21:10,15 representation 11:21 represented 9:10 9:11,14,16,17 10:19,20,23 representing 5:10 9:23 24:17 29:4,6 65:19 represents 21:11 21:11,12,13 63:19 request 109:16,17 109:18,20,21 requested 109:14 requesting 99:23 required 23:11 59:11 87:10,12	105:21,23 requirement 59:25 requirements 59:10 reserve 59:11 105:23 reserved 4:22 27:6 residing 78:3 81:7 resigned 33:11 resigning 33:12 respective 1:14 4:6 response 39:2 rest 55:16 return 88:9,12,14 89:12 returned 40:16 returns 89:12 revenue 2:5,9,14 5:11 right 8:24 35:23 36:19 41:8 52:3,4 73:4,15 74:5 77:9 81:17 83:25 84:9 92:4,6 98:23 100:24 103:4,15 104:24 rivkin 2:8 rmg 72:3,5 road 80:19,23 robert 3:17,19 roman 36:16,18 rosen 2:18,21 6:5 8:13,17,24 11:5,10 11:15 13:2,5 17:21 18:19 22:11 23:6,9,21 24:2,6 25:7,13,22,25 26:10,14,16,20 27:16,21 28:7,14	28:22 49:21 50:19 50:24 51:3 62:10 62:22,24 82:22,25 rosen's 6:14 rosenberg 3:4 9:4 10:20 12:8,10,19 12:25 13:15,20 15:2 17:6 18:9,18 19:8 22:17 23:12 24:11,15,20 29:7 33:3 46:22 47:5 51:19 62:14 63:14 63:18 64:2,5 65:12,18 66:12 68:11 69:5,7 72:10 100:15,18 101:22,25 104:6 rosenberg's 57:2 68:15 69:10 70:2 rosenbergs 66:7,8 100:5 rugby 80:19,22 rules 1:15 7:7 rulings 109:23 runs 55:17 russell 2:4,9,14 3:21 5:11 rutherford 75:23 94:9 rxr 2:10	salmon 41:17 san 40:2 sandy 8:13,16,22 8:23 11:11 24:2 28:17,21 sanford 2:21 saying 33:9 63:11 76:12 85:19 says 44:19 49:16 51:23 62:16,17 66:14,20 67:4,11 70:2 schedule 88:25 schedules 44:15 44:25 45:4 51:14 51:22 56:15 72:22 85:22 schwartz 2:4,6 5:8,9 6:3,10,18 8:15 9:2 10:2 11:8 11:12 23:24 25:10 25:15,23 26:5,12 26:16,25 27:19 28:2,10 33:24 49:24 50:22 51:2 51:5 82:24 83:5 97:3 103:12,18,19 107:15 109:11 screen 102:18 se 3:17 sealing 4:7 second 10:22 44:6 47:4 48:8 56:13 57:5,8,9,15,18 58:21,24 59:16,22 60:19 61:20 67:20 71:5 76:16 87:17 101:9 103:23 secured 23:15 61:19
		s	
		s 2:2 3:2 4:2,2 5:2 49:13 70:18 109:2 111:5 sa 36:15,16 39:23 40:17 sadly 83:15 87:13 salary 93:23 sale 31:6,10 58:17 58:19,25 59:13 95:3	

security 83:10,13 84:16	signing 100:12	special 89:5 91:7,9 100:5	stella 49:8,12 80:5
see 6:5 35:25 48:7 96:10	similar 31:5,11,12	specific 13:22 17:10 22:19 94:3 94:5	stella's 80:14
seeking 7:12	sister's 97:19	specified 108:11	stipulated 4:5,20
seen 66:17 68:2,4	sitting 18:12	specify 9:22	stop 25:23 37:7
sell 42:13 57:16,22 58:8,11,12	six 46:14 47:16,18 91:20 105:4,8	speculative 55:8 55:11	street 17:7 19:15 45:11 52:12 53:2 71:4 76:17 78:8 91:23 92:7 97:15
send 75:18 91:14 91:17	size 31:13,14,16 32:2	spend 99:12	stuart 2:11
sends 81:16	social 83:10,13 84:16	spending 98:25 99:8,16	studio 56:3
senior 46:19 47:7 47:7	sold 40:6,7 52:2,17 52:19 58:13,14 59:24 60:3 65:5 70:9 77:6 104:15 104:18,19,21,24 104:25 105:4,13 106:16,17	spilled 35:24	stuyvesant 80:3
series 13:14	sole 45:12,15	spills 48:7	subject 66:22
service 4:16	somebody 62:14 63:12	spiral 32:19	sublease 38:2 39:5
services 3:23	somewhat 7:23 47:9	spoke 10:23 24:10 34:24 64:3,4	subscribed 108:18 111:22
set 5:16 6:12 48:14 82:12 110:11,20	son 66:13	ss 110:4	subsequent 95:14
seth 37:21	sorely 18:23	stabilization 9:12	substantial 32:13 85:23 86:19
settlement 61:12 61:14,14 67:21 69:25	sorry 8:25 13:16 21:17 23:8 38:21 45:2,2 48:24 54:12 58:2 67:3,7 81:19 103:20	stabilized 77:20	subtenant 38:22
seven 58:12	sort 53:11	stage 51:25	subtracted 46:18
seventy 92:13	sound 83:25	stainless 32:18	successfully 70:10
shavuot 79:6	source 86:4	staircases 32:19	suffolk 110:5
shaw 95:8 96:7	sources 56:7	standard 73:16	suite 2:5 3:10
sheet 111:1	south 2:5 40:2 92:11,11	start 36:21	sum 84:20
shelter 99:25	space 57:8	state 1:17 5:4 6:19 6:22 14:6 16:17 28:12 110:4,8	supervised 71:13
ship 41:19	speak 63:7,20,23 64:8 96:7	statement 43:25 75:18	support 10:8
shipped 41:19	speaker 28:18	statements 28:4 91:8,15,25 93:8,17	supporting 87:2
short 5:20 34:5 35:19 36:11 97:5	speaking 23:25 63:25 64:2	states 1:2 3:13	suppose 47:7 85:12 93:10
show 15:9		status 40:4	supposed 68:9 75:20
side 26:6,7		stay 97:14	sure 14:17 15:2,14 18:11,14 20:16 31:9 35:5 38:16 38:16 50:6 61:4 69:11 75:10 79:3 82:17 89:17 94:24 98:2 99:20 103:21
sign 18:14 73:15		stayed 104:14 105:16	surgical 42:11
signatories 44:7		steel 32:18	sworn 4:10 5:4 108:5,18 110:11
signature 17:17 110:22		stefan 12:6 37:21	
signed 4:10,12,15 14:16 20:2 33:2,4 63:21 73:9			

111:22 syosset 3:11	tenant 38:21 39:6 39:7 55:21,24 56:2	third 2:20 3:5 70:10 104:21,24	trail 106:20
t		thought 22:25 82:6 104:17	transaction 24:18 24:21 51:19 52:21 57:2 66:22 69:16 100:19
t 4:2,2 5:2 20:12 41:6,7 49:13 70:18 91:6 108:2 109:2 110:2,2	tenth 52:12 54:17	three 37:8 57:7 58:14,14 60:16 61:16,16 62:12 89:8 104:10,11,13 104:23 106:3	transactions 93:22 106:5
table 7:24	terminated 38:25 39:7,12		transcript 10:16 108:9,9
take 5:21 10:17 34:2 36:10 61:6 96:25 98:14	terms 29:10,19 30:14 64:4,9 68:24 96:15	time 1:9 4:22 5:15 5:16,21 6:13 8:11 10:15 11:19 12:15 13:7 18:24 21:19 23:11 27:18 30:3 30:7 32:4 33:7 35:3,4 38:8 40:14 50:8,13 56:14,19 58:19 73:23 78:14 79:17 82:7,10 83:20 84:3 86:14 87:24 94:16 96:8 96:8 102:18,19 103:17 108:10	transfer 50:11 transferred 52:20 transfers 50:17 82:13
taken 1:13 6:9 7:3 34:6 35:20 36:12 41:23 97:6	testified 5:5		transition 93:19 93:21 94:2
talk 90:16	testify 108:5		tri 36:17 42:5
talking 24:20,23 99:13 104:17	testimony 108:6 108:10 110:13		trial 3:22 4:22
talks 28:14	thank 8:25 34:4 36:13,13 51:10 75:11 79:4 89:22 102:25 103:3,11 103:18 107:8		tried 88:23
tax 84:4,8 88:9,12 88:14,18 89:11,12	thin 37:4		triple 38:6
taxes 47:8,12 55:18 77:19 85:3 87:3	thing 42:2 55:13 98:7 100:24 101:25		trouble 8:18
tech 3:22	things 10:14 42:11 82:11	times 7:25 28:13	troubling 54:6
technical 23:5 24:5 27:25	think 11:23 13:4 21:13 28:20 32:6 38:18 39:9,13 43:3,11 47:15 48:16 51:20 52:23 54:5 55:19 57:13 58:13 60:8 70:6 70:12 71:22 73:2 78:10,10 80:22 81:25 90:25 91:5 94:21 95:4,21 96:20 102:22,23 103:4 104:10	timing 103:2	tru 36:17 41:6,24
telephone 6:16 75:2,5,8 96:18,20 96:21,24 109:16	thinking 96:15	tippins 95:8	true 14:15,18 108:9 110:12
tell 16:4 21:20,23 23:24 27:17 31:3 33:8 36:3 45:8 62:18 97:12 98:21 104:10 106:21		tired 79:18,23	trust 48:18 49:7,7 49:8,8,8,11,11,12
telling 11:13 26:5		tlg 20:5,9,12,18 21:20,24 22:6 32:24 33:4,15,18	trustee 3:13
tells 96:8		today 7:17,22 78:5 90:5 103:6	trustees 82:14
temporarily 77:22		told 22:13 64:9 95:12	trusts 21:12 48:12 50:12 51:8 81:18 81:20,21 82:15,19 82:20 85:17,20 86:12
ten 18:16 86:17,20 103:25 104:19 107:10		tools 42:11	truth 108:5
		top 46:16	try 97:8
		total 76:12	trying 8:20 17:10 21:5 45:16 88:6
		totally 31:23	ts 43:16
		town 74:2	tuesday 79:6
		towns 37:14	turnpike 3:10

twelve 85:7 twice 32:2 two 7:8,11 31:21 32:18 41:4 47:10 52:16,18 57:23,24 57:25 58:3,3,4,5 58:13,15 59:17,18 60:16 103:23 105:3	understanding 68:8 understands 11:17 unemployment 83:11,12 unfortunately 87:17 union 43:22 44:9 uniondale 2:10 unique 101:19 unit 32:14 45:25 46:7 58:11 77:20 93:3 united 1:2 3:13 units 31:21 57:23 58:14,15,17,20 86:24 89:8,10 104:14 university 57:10 unsecured 18:17 unsigned 4:14 use 97:21 utilities 84:10,13 98:9	veritext 111:1 version 68:13 vi 36:16 40:18 victim 35:24 video 6:15 virtual 1:12 visit 78:13 102:23	winter 48:4,6,17 48:21 49:3,5 winthrop 73:12 92:24 wish 103:10 witness 4:10,16,18 5:3 6:2 11:7 23:8 23:10 27:20,22 28:17,24 33:22 34:4 36:9,13 41:21 49:23 107:19 110:10,13 110:19 witnesses' 111:3 wondering 18:6 word 28:16 50:23 words 45:16 work 24:8 59:25 75:22,23,24 91:21 93:12 94:2,13 105:10,12 working 93:18 100:23 works 92:9,10,12 worry 79:11 worth 40:13 53:10 54:10 worthy 87:17 writing 29:22 30:13 wrong 26:20 80:24
u	v	w	x
u 4:2 5:2 41:6,7 uh 9:10,18,18 12:10 15:25 17:7 17:7 18:4 30:16 35:8,15 38:12,17 42:11,12,13 43:21 45:11 48:22,22 49:4 52:22 55:4 57:8,12 58:9 60:4 64:4,11,12 65:3,23 66:21 70:20 71:11 71:13,15,17,22 72:2,6 73:11 78:11 81:12 84:15 84:20 87:7,16 90:25 92:10,24 94:10 95:4 97:18 97:19 98:8 101:18 103:24 104:4,5 105:16 106:2,15 um 39:13 46:24 63:9 64:19 84:6 106:6 unable 28:6 understand 6:11 14:17 16:3 26:12 27:3,4 29:4 45:17 52:22 63:18 64:6 67:7,8 79:5 81:5,5 83:2 98:2	vacant 87:11 value 31:2 32:10 32:11 40:13 41:2 44:20 46:11,14,15 47:19 53:5,12,14 53:22 54:14,19 55:7,8,14 59:20,23 60:4 65:6 82:13 89:6 100:4 valued 60:11 values 100:25 various 35:8 65:7 vegas 2:6 57:13,14 60:24 94:25 ventures 36:17 42:5	wait 6:4 34:3 44:17,17,21 48:23 waived 4:9 want 5:24 10:13 28:5 75:6 78:23 79:15 103:16 106:16 107:9,11 wanted 23:15 74:12 95:13 wants 103:14 water 77:25 waterfall 68:16,25 69:23 way 29:22 30:24 31:12 48:13 110:17 wealthy 82:7 went 59:9,14 63:10 64:8 104:20 105:10 106:21 westchester 86:25 89:16 whereof 110:19 wife 19:18,19 20:10 21:15 22:3 35:3 44:11 45:20 78:6,21 79:20,22 82:16 84:15 102:16 william 2:13,16 willing 30:5 win 94:17	y
			yeah 15:7 22:23 52:6 53:16 60:17 62:16 63:25 80:4 90:6 92:14 95:18 104:23

[year - zoe]

Page 18

year 38:23 43:14 46:25 53:20,22 55:2,5 56:7,10 72:19,24 77:13,15 81:23 103:23,24 years 18:17 32:6,9 37:8 52:16,18 57:17,23,24,25 58:3,5,15 59:17,18 60:16 73:12 74:7 86:17,20 87:15 88:19,24 105:3 106:3 yesterday 35:17 78:12 89:3,5 york 1:2,17 2:10 2:15,15,20,20 3:6 3:6,11,14 5:5 6:13 6:25 9:12 17:16 37:15 57:10 110:4 110:8 111:1
z
z 49:12 zero 44:20 61:16 77:16 zoe 49:8,12 80:18

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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